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1/5/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
January 5, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

JAN 5 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- |    |                          |          |
|----|--------------------------|----------|
| A. | 495 Arlington St.        | I001-82A |
| B. | 1790 Jackson St. #204    | I001-83A |
| C. | 371 Turk St. #24         | I001-84A |
| D. | 868 Shotwell St. #2 & #3 | I001-87A |
| E. | 1266 Stanyan St. #11     | I001-88A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
- 6:00 309 Steiner St. #B I001-77A (accepted 12/15/87)
- XII. Calendar Items
- XIII. Adjournment

1337A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 5,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Marshall called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Marshall;  
Morales; Gartzman.  
Commissioners not Present: Alviar; Payne; Waller.  
Staff Present: Hernandez; O'Hearn.

Commissioner How appeared at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 22, 1987.  
(Carrico/Morales: 4-0)

IV. Consideration of Appeals

A. 495 Arlington St. I001-82A

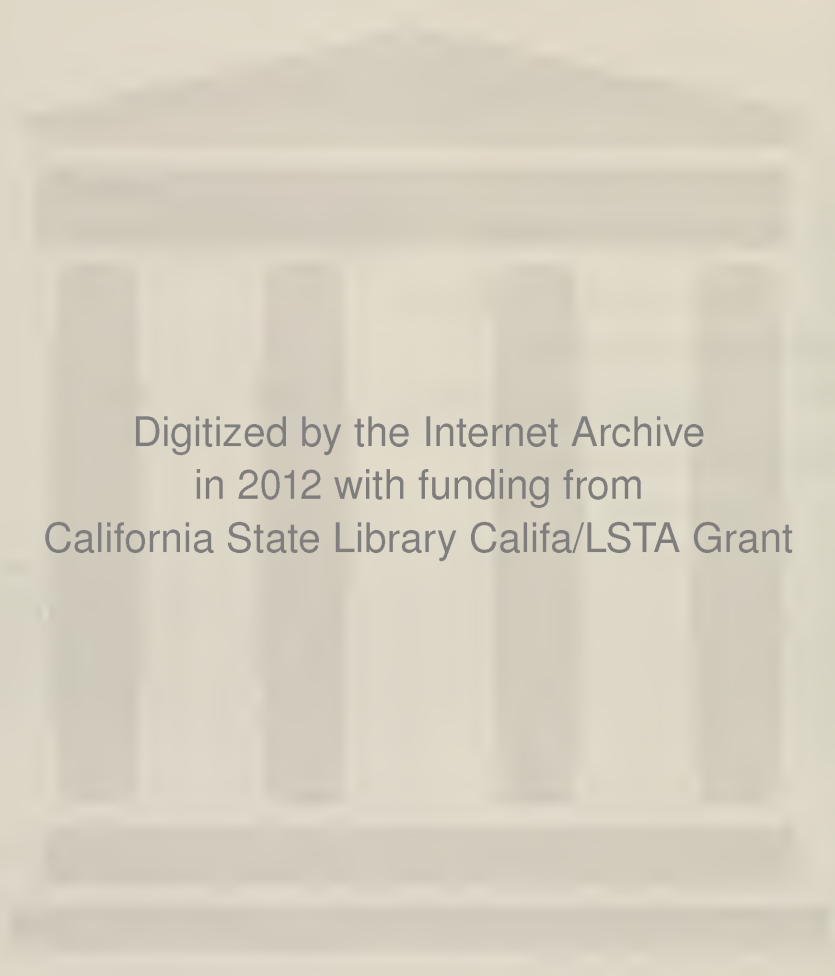
The landlord, who failed to appear at the hearing, appeals the hearing officer's decision granting rent reductions to correspond with the loss of heat, weather-proof window and door, and front light. The landlord, who does not contend lack of notice of the hearing, argues on appeal that the tenant removed the heating units and that the services were restored 21 days after the decision was issued. His appeal was filed following a notice of correction of clerical errors in the decision.

MSC: To deny the appeal. (Astle/Morales: 4-0)

B. 1790 Jackson St. #204 I001-83A

The landlord appeals the hearing officer's denial of an operating and maintenance increase sought for a tenant who moved in during the adjustment (current) year used by the landlord. The landlord contends that the increase should be granted because the tenant, who currently pays \$720.00 per month, moved in one month before the landlord purchased the property in 1986.

Although the property consists of 32 units, the landlord only seeks an additional increase for unit #204. Two months before filing the instant petition, he filed a petition seeking an increase only for unit #504 using the same 12-month comparison periods showing increased



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operating expenses. By Decision I001-07L, issued on October 21, 1987, the landlord was permitted to increase the rent for unit #504 from \$720.00 to \$856.80, including banked increases for 1985 and 1986.

Both the tenants of units 204 and 504 previously filed petitions, along with other tenants at the property, and received a monthly \$30 decrease to correspond with the loss of monthly window washing and floor waxing services pursuant to Decision H007-76T, etc., issued on May 6, 1987.

MSC: To accept the appeal for a Board hearing limited to the issues raised on appeal. (Carrico/Morales: 4-0)

C. 371 Turk St. #24

I001-84A

The landlord appeals the hearing officer's decision granting a \$35/month rent reduction to correspond with the loss of safe conditions due to large holes in the wall and floor. The landlord states that many attempts were made before finally completing repairs after the hearing.

MSW: To deny the appeal. (Morales/Astle)

Following discussion on the hearing officer's lack of findings concerning the attempts to make repairs, the Board decided to continue consideration of the appeal in order to obtain a response from the hearing officer.

MSC: To table the matter until the next meeting.  
(Astle/Morales: 4-0)

D. 868 Shotwell St. #2 & #3 I001-87A

The landlord appeals the hearing officer's decision determining rent overcharges. His appeal states that the tenants of unit 2 agreed to the increases in exchange for repairs to the apartment. He also states that some overcharges for unit 3 were made by the former landlord.

MSC: To deny the appeal. (Astle/Morales: 3-1; Carrico dissenting)

E. 1266 Stanyan St. #11

I001-88A

The landlord challenges the rent overcharge determination of \$2,750.00 claiming the amount is excessive and that he has been negotiating with the tenant for a lesser amount. The overcharge is based on void increases of 9.38% in 1983 and 5.13% in 1986.

A similar overcharge was found for unit #10 raised in the rent history of the landlord's petition for capital improvement rent increases pursuant to Decision H003-62C issued on September 9, 1987 and appealed by the landlord. October 20, 1987 the Board remanded that case solely for clarification of the null and void issue with notice of such issue to the parties. Remand decision I001-40A was issued on January 5, 1988 affirming the original decision.





MSC: To accept the appeal and remand the case to the same hearing officer with instructions to make further findings on the facts of the case without relying on the prior decision, and to re-hear the case if the decision as rendered was made in reliance of the prior decision. (Astle/Marshall: 4-0)

V. Communications

The Commissioners received the following communications:

- A. Correspondence addressed to the hearing officer from the appellant for 495 Arlington St.; and addressed to the Board from both respondents for 868 Shotwell St.
- B. the Eviction Decision for 1868 Page St. (Nos. G166-46E & G166-48E) heard on November 24, 1987, which the Board wanted to review further before approving, and the Appeal Decision for 949 Lombard St. (No. I001-73A) rendered on December 22, 1987, which the Board approved and signed.

VI. Appeal Hearing

309 Steiner St. #B

I001-77A (accepted 12/15/87)

Due to administrative noticing error and the inability of the landlord's attorney to attend, the appeal hearing for this case has been rescheduled for January 19, 1988.

VII. Calendar Items

January 12, 1988

8 appeal considerations (including 1 continued from 1/5/88)  
1 eviction reconsideration  
7 eviction case summaries

January 19, 1988

6 appeal considerations  
Old Business: Statute of limitations on null & void and banking.  
Appeal Hearings:

6:00 309 Steiner #B

I001-77A (accepted 12/15/87)

7:00 1790 Jackson St. #204

I001-83A (accepted 1/5/88)

VIII. Adjournment

President Marshall adjourned the meeting at 6:30 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
January 12, 1988

1/5/88

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

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DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

NOV 20 2000

SAN FRANCISCO  
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- A. 371 Turk St. #24
- B. 1455 Hyde St.
- C. 1100 Gough St. #19D
- D. 1400 Washington St.  
units 9, 10, 14, 15, 16 & 17
- E. 895-A Noe St.
- F. 191 - 5th Ave. #3
- G. 1240 Hayes St.
- H. 160 Pierce St. #4

- I001-84A (cont. from 1/5/88)
- I001-51R
- I001-89A
- I001-52R through I001-57R
- I001-90A
- I001-91A
- I001-92A
- I001-93A

DOCUMENTS DEPT.

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

NOV 20 2000

SAN FRANCISCO  
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- A. Report from Staff
  - 1. 2351 Washington St. #104 H007-67E
  - 2. 322-324 Brazil I001-94E & I001-95E
  - 3. 1272 York St. I002-02E
  - 4. 1155 Hayes St. #3 I002-53E
  - 5. 1868 Page St. G166-46E through G166-48E
  - 6. 1321 - 4th Ave. I001-17E
  - 7. 2370 Union St. I001-72E
- B. Request for Reconsideration
  - 612 & 616 Steiner St. I001-85A

- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment



RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD

JANUARY 12, 1988

THE MINUTES FOR THIS MEETING ARE MISSING







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 19,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

JAN 26 1988

I. Call to Order

President Marshall called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present: Alviar; Astle; Gartzman; How;  
Marshall; Morales; Payne.  
Commissioners not Present: Carrico; Waller.  
Staff Present: Hernandez; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of January 5, 1988 as written.  
(Alviar/Morales: 5-0)

IV. Consideration of Appeals

A. 455 Eddy Street #1607, 1613, 1604, 1609, 1007, 1210 & 1207  
I001-63R through I001-67R

The tenants in seven units appeal the hearing officer's decision on remand, alleging that a 5% rent reduction is inadequate considering the level of discomfort they are experiencing. When the landlord installed a new roof on the building no insulation was provided and, therefore, the 16th floor is significantly colder in the winter and warmer in the summer than it had been previously. As the Commissioners had not received the hearing officer's decision, the following motion was made and carried:

MSC: To continue consideration of this appeal for one week.  
(Alviar/Morales: 5-0)

B. 2124 Hyde Street #3 I001-58R

The tenant in one unit appeals the hearing officer's decision granting the landlord rent increases due to increased operating expenses and denying the tenant's claims of decreased housing services and failure to repair. The tenant alleges that the landlord failed to respond promptly to a Notice of Violation from the Bureau of Building Inspection that has since been abated; and that the landlord's tax and debt service figures have been manipulated so as to provide the opportunity for future rent increases based on the same expenses.



MSC: To uphold the hearing officer's decision and deny the appeal. (Payne/Alviar: 5-0)

C. 2200 Leavenworth St. #205 I001-59R

One tenant appeals the hearing officer's decision granting rent increases due to increased operating expenses. The tenant alleges that the landlord has recently acquired new financing which may be at a lower rate and that some of the expenses were attributable to newly rented units.

MSC: To uphold the hearing officer's decision and deny the appeal. (Payne/Alviar: 5-0)

D. 785 San Jose #D I001-64R

The tenant appeals the hearing officer's decision denying a rent reduction for decreased housing services. The conditions complained of had arisen more than a year prior to the filing of the petition, and the hearing officer found that no extraordinary circumstances existed. The tenant maintains that she had complained regarding the lack of heat to three bedrooms and the failure to provide a secure front door lock, but that she was told nothing would be done.

MSC: To uphold the hearing officer's decision and deny the appeal. (Payne/Alviar: 5-0)

E. 731 47th Avenue #2 I001-86A

The landlord appeals the hearing officer's decision on remand determining rent overcharges due to a change in room-mates and specifying that the tenant in this case was an "original tenant" as defined in the Board's De Wolf decision (Appeal Number B136-25). The landlord maintains that the hearing officer refused to leave the record open for the submission of additional testimony and evidence material to the case.

MSC: To accept the appeal and schedule a hearing before the Board. (Payne/Alviar: 5-0)

V. Appeal Hearing

309 Steiner St. #B I001-77A (continued from 1/5/88)

The Commissioners received a request for postponement from the tenant in this case.

MSC: To grant the postponement request and re-schedule this appeal hearing for February 9, 1988 at 5:45 p.m. (Morales/Payne: 5-0)



VI. Communications

The Commissioners received the following communications:

A. Several letters from the parties involved in the appeal considerations on tonight's agenda.

B. The appeal decisions for the cases at 1732 Page Street #1 (I001-67A, I001-45R and I001-71A) and 1868 Page Street (G166-46E), which were approved by the Board and signed by President Marshall.

C. A newspaper article regarding the status of Commissioners serving on City Boards after having tendered their resignations.

VII. Director's Report

The Executive Director reported that, according to the City Attorney, the Board meeting of January 12, 1988 is null and void due to lack of a quorum of sworn Commissioners and all business conducted at that meeting will be re-calendared. He also had a very good luncheon meeting with the Professional Property Manager's Association.

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 1369 Hyde #34, 48 & 56                      I002-57E, I001-46E, I002-09E

Since the landlord's recent purchase of the building, the tenants allege that they have been threatened with eviction if they did not sign materially different rental agreements, execute "master tenant" agreements that allow for inspections without cause, remove pets approved by previous owners, etc. They further allege that the actions of the owner have caused several tenants to vacate; all involved units are considerably below market rent. The owner has come before this Board with increasing frequency in the recent past.

Recommendation:

It is advised that a stern cautionary letter be sent the owner and the cases be carefully monitored.

2. 2009 Castro                                      I002-35E

In September 1987 the tenant was given a defective termination notice for capital improvements. There is no information to suggest that any of the work contemplated would require vacancy.

Recommendation:

The case should be monitored periodically to determine:  
(1) if the tenants need to move; (2) if so, whether proper notice has been given; and (3) if the work





progresses properly and the tenants are given a timely right to reoccupy.

3. 747 Leavenworth #6 I002-19E

The tenancy began in March of 1987. Since moving in, the tenant has complained about loud stereos from adjacent apartments. Because his rental agreement prohibited stereos, he sold his before beginning occupancy; on the landlord's assurances, the rental agent assured him the building was very quiet. After complaining about the stereo to the owner - who apparently did speak to the resident playing the music - the tenant allegedly began experiencing excessive noise from the owner's unit above, which actions he maintains are retaliatory. The tenant has repeatedly been told that the Rent Board's ability to handle this kind of case is limited.

Recommendation:

Since there is no outstanding eviction notice, and since this type of constructive eviction is best left to the courts, it is recommended that: (1) the landlord be written a cautionary letter by the Board; and (2) it be expressly voted that no further action will be taken by the Commissioners.

MSC: To accept staff recommendations on all three eviction reports and take no further action on the case at 747 Leavenworth. (Payne/Alviar: 5-0)

B. Requests for Reconsideration

1. 2351 Washington St. #104 I001-94A

The landlord requests reconsideration of an eviction summary and recommendation, in a case where the tenants have been evicted for capital improvements and a Landlord's Petition for Extension of Time was eventually filed. Many procedural and substantive errors were committed by the landlord and his attorney, including failure to let the tenants know that the estimated reoccupancy date was off by one month. In his request for reconsideration, the landlord maintains that the tenants were not harmed by the landlord's "mistakes"; that the evictions were not wrongful as the property was in need of renovation; and that he had exhibited his good faith through other actions.

Recommendation:

(1) To deny the landlord's request for appeal reversal and eviction reconsideration; (2) To write a cautionary letter to the landlord and - perhaps separately - to his attorney, informing them of the Board's concerns; and (3) to further investigate in order to determine whether other tenants encountered trouble obtaining relocation monies, were denied access to inspect before



resuming occupancy, and were otherwise treated in a manner outside the dictates of the law.

MSC: To deny the landlord's request for reconsideration.  
(Morales/Marshall: 4-1; Payne dissenting)

MSC: To accept staff's recommendation. (Morales/Alviar: 5-0)

2. 612, 616 Steiner I001-85A (continued from 1/12/88)

The landlord requests reconsideration of the eviction summary and recommendation, as he feels that the work being undergone will meet the requirements for exemption from the Ordinance due to substantial rehabilitation and that, therefore, he has no obligation to inform the tenants of their rights to re-occupy.

Recommendation:

A. To deny the reconsideration request but take no further action at this time beyond informing the landlord of (1) the habitability aspect of substantial rehabilitation; (2) if he does not 'apply for' substantial rehabilitation when the work is complete the evictions will be wrongful; and (3) he should maintain current addresses for the tenants so that he can give them first right of refusal for reoccupancy in case substantial rehabilitation is not granted.

B. To monitor the progress of the work and the landlord's approach when the work is complete.

MSC: To deny the landlord's request for reconsideration.  
(Morales/Marshall: 5-0)

MSC: To accept staff's recommendation. (Payne/Alviar: 5-0)

IX. Calendar Items

January 26, 1988

8 appeal considerations (one continued from 1/19/88)

Appeal hearings

6:00 1790 Jackson St. I001-83A (accepted 1/5/88)  
6:30 191 5th Avenue #3 I001-91A (accepted 1/12/88)

Eviction case summaries

Request for Eviction Reconsideration:

1140 Sutter St. #501 I001-95A

February 2, 1988

5 appeal considerations

Appeal Hearing:

6:00 731 47th Avenue #2 I001-86A (accepted 1/19/88)  
1357A



February 9, 1988

4 appeal considerations

Appeal hearing:

5:45 309 Steiner #B

I001-77A

(rescheduled from 1/19/88)

6:30 Eviction Hearing:

1321 4th Avenue

I001-17E

X. Adjournment

President Marshall adjourned the meeting at 6:30 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
January 26, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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I. Call to Order DOCUMENTS DEPT.

II. Roll Call JAN 26 1988

III. Approval of the Minutes SAN FRANCISCO PUBLIC LIBRARY

IV. Consideration of Appeals

A. 455 Eddy St. #1607, 1610, 1613, 1604, 1007 & 1207  
I001-63R-67R (continued from 1/19/88)

B. 2888 16th Street I001-97A

C. 1369 Hyde St. #15, 17, 20, 24, 25, 34, 35, 42, 46A, 47, 49,  
52, 63 and 74 I001-70R through I001-98R

D. 1580 Beach Street I001-98A

F. 2665 Sacramento I001-68R

G. 38 Washburn I001-99A

H. 1275 Greenwich I002-01A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 322-324 Brazil I001-94 & 95E

2. 1272 York I002-02E

3. 1155 Hayes I002-53E & I001-04B

4. 2438 Jones I002-84E

B. Request for Reconsideration

1. 1140 Sutter #501 I001-95A

C. Updates

1. 1868 Page G166-46E

2. 1321 4th Ave. I001-17E

3. 2370 Union I001-85E

IX. Old Business

X. New Business

XI. Appeal Hearings

6:00 A. 1790 Jackson

I001-83A (accepted 1/12/88)

6:30 B. 191 5th Ave.

I001-91A (accepted 1/12/88)

XII. Calendar Items

XIII. Adjournment





FEB 5 1988

SAN FRANCISCO  
PUBLIC LIBRARY

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 26,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar; Astle; Carrico; Gartzman;  
Marshall; Morales; Payne.  
Commissioners not Present: How; Waller.  
Staff Present: Hernandez; O'Hearn.

Commissioner Astle left at 6:20 p.m. and Commissioner Alviar left at  
8:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 19, 1988 as written.  
(Alviar/Morales: 5-0)

IV. Consideration of Appeals

A. 455 Eddy St. I001-60R through I001-63R  
units 1609, 1610, 1613, and I001-65R through I001-67R  
1604, 1607, 1007 & 1207

Consideration of these tenants' appeals was continued from the previous  
Board meeting on January 19, 1988.

MSC: To deny the appeals, with the exception of providing  
clarification on the issues raised by the tenant of  
#1007 (Appeal I001-66R). (Payne/Carrico: 3-2; Morales  
and Marshall dissenting.)

B. 2888 - 16th St. I001-97A  
units 3, 4, 5 & 6

The hearing officer granted rent reductions to correspond with the loss  
of fumigation service and the loss of the front door buzzer and lock.  
The landlord appeals claiming that her representative, who manages the  
building and appeared at the hearing, was not acquainted with repairs  
which have been performed and that one of the tenants is responsible  
for much of the damage at the building.

MSC: To deny the appeal. (Carrico/Morales: 5-0)



- C. 1369 Hyde St. I001-70R through I001-98R  
units 15, 17, 20, 24, 25, 34, 35, 42, 46A, 49, 52, 63, 74,  
59, 44, 43, 14, 18, 30, 32, 26, 38, 40, 56, 60, 64, 67 & 69

These 28 tenants appeal a consolidated decision on their landlord's rent increase petition for 65 units based on both capital improvements and increased operating expenses and on 31 tenant petitions based on various claims. The issues raised on timely appeal are that the landlord furnished incorrect tax data and that the landlord failed to provide the insurance policy for the property.

MSC: To accept the appeals and remand the case to the hearing officer limited to her determination on the issue of the tax data. (Morales/Marshall: 5-0)

- D. 1580 Beach St. I001-98A  
units 101, 102, 103, 104, 202, 203, 204, 302, 303 & 304

The landlords appeal the hearing officer's decision on their rent increase petition primarily to contest the rent overcharge determination resulting from the previous owner's imposition of a \$50 increase in 1982 purported for roof work and a subsequent "utility charge" purportedly as a PG&E passthrough two months after imposing the annual increase in 1984.

MSC: To accept the appeal for hearing before the Board with instructions to the parties to provide advance stipulations on the individual rent histories.  
(Carrico/Alviar: 3-2; Morales and Marshall dissenting.)

- E. 2665 Sacramento Street I001-68R

The hearing officer determined that the owner occupies a unit (2667) as his principal place of residence at this 3-unit property even though he frequently is absent from the premises. The tenant challenges the determination that the property is exempt from the Rent Ordinance and submits information that the owner claims a homeowners tax exemption at another residence.

MSF: To accept the appeal and remand the case to the hearing officer to consider the homeowners tax exemption.  
(Morales/Marshall: 2-3; Alviar, Carrico and Payne dissenting.)

MSC: To deny the appeal. (Payne/Alviar: 3-2; Morales and Marshall dissenting.)

- F. 38 Washburn St. #204 I001-99A

The landlord appeals the hearing officer's decision granting a monthly \$20 rent decrease to correspond with the loss of use of the kitchen and adjoining room. The landlord argues that the kitchen use was illegal and that the landlord has performed capital improvement work at the building.



MSC: To deny the appeal. (Payne/Alviar: 4-1; Morales dissenting.)

G. 1275 Greenwich St. I002-01A  
units 202, 204, 402 & 502

The landlord appeals the hearing officer's denial of the landlord's petition for a capital improvement passthrough for new windows installed in order to implement a prior passthrough for other waterproofing work. The prior passthrough (No. F10-17C) was granted by the Board August 27, 1985 in its consideration of the landlord's appeal of the 1985 decision.

The Commissioners requested a copy of the 1985 decision for review before making a final determination on this case.

MS : To deny the appeal. (Alviar/Morales),

MSC: To continue the matter until the next Board meeting.  
(Payne/Carrico: 3-2; Morales and Marshall dissenting.)

V. Appeal Hearing

A. 1790 Jackson St. #204 I001-83A (accepted 1/5/88)

The Board accepted this appeal in order to determine the propriety of imposing an operating expense increase on a tenant who commenced her tenancy during the adjustment (current) expense period used by the landlord. The hearing began at 6:22 p.m. with the tenant representing herself and the landlord represented by his attorney. The property manager testified on behalf of the landlord.

After the hearing concluded at approximately 7:00 p.m., the Commissioners postponed their discussion until after concluding the next agenda item which had been scheduled for 6:30 p.m.

MSC: To vacate the hearing officer's decision and find that the landlord is entitled to an operating expense increase effective November 1, 1987, with retroactive sums payable at the rate of \$25/mo. until paid, and with no future operating expense increase.  
(Payne/Carrico: 5-0)

B. 191 5th Ave. #3 & #5 I001-91A  
(originally scheduled for consideration on 1/12/88)

Due to a prior misinterpretation of permissible action by City Commissioners who submitted their resignations to the Mayor, the Board's action on January 12, 1987 to accept this appeal was of no legal affect. Therefore, after the President explained this situation, all of the parties agreed to waive additional written notice of appeal consideration, as well as additional written notice of appeal hearing, if the Board voted to accept the appeal for hearing before the Board. Following their waivers, the Board first considered the appeal.





o tenants were granted rent reductions to correspond with the loss of services (steam heat and individual washers/dryers) previously provided by the landlord, but recently made the responsibility of the tenants, in part due to a change in the heating system. The landlord argued on appeal that no bills had been offered from the tenants to show any increase in cost and that they had earlier agreed to pay this expense whenever conversion to electric heat was made; and that the washers/dryers were provided with no warranties as to use.

MSC: To accept the case for a hearing at the Board level.  
(Alviar/Carrico: 3-2; Marshall and Morales dissenting.)

The hearing therefore commenced at 7:11 p.m. with all parties present and representing themselves. Following conclusion of the hearing at approximately 8:40 p.m., the Commissioners discussed the case and subsequently approved the following motion:

MSC: To affirm the hearing officer's decision.  
(Morales/Marshall: 3-2; Carrico and Payne dissenting.)

#### VI. Consideration of Allegations of Wrongful Evictions

##### A. Report from Staff

1. 322-324 Brazil I001-94E & I001-95E  
(originally scheduled for 1/12/88)

These cases were originally heard in September 1987. Both units were served legally invalid termination notices for an undecipherable reason, later admitted to be for capital improvements. Permits had not been obtained. A written settlement was reached at the hearing, and the hearing officer informed both sides of all necessary steps, including relocation reimbursement and first right of reoccupancy.

In November the owner received permit approval to essentially demolish the existing units and add to them. Another legally invalid eviction notice was served. One tenant vacated. The remaining tenant informed the Board that the vacant unit was being demolished, resulting in serious structural instability of the unit in which her family resided, even though less than half of the notice period had expired. The landlord did not cooperate in providing for moving costs. BBI cited the landlord for causing hazardous conditions with tenants still in residence and working when the permits had been suspended.

EVALUATION & RECOMMENDATION: Despite prior warning, the landlord continued to proceed improperly. The case should be monitored and further investigation made into the circumstances surrounding both evictions, with possible later referral to the District Attorney and/or City Attorney. The landlord should be informed of the Board's concern.



2. 1271 York I002-02E  
(originally scheduled for 1/12/88)

The tenants had prevailed in March 1987 on their petition for a \$50 rent reduction for service decreases; future rent increases were also denied until repairs were made. Although repairs were not made until later, the landlord attempted to raise the rent and disconnected the tenants' heat. When the tenant did not pay the increase, the owner asked for a \$500 security deposit increase and increased rent for an additional occupant. A defective eviction notice was issued in August for failure to pay the additional amounts. At the second hearing the rent increase was again denied, the tenants proved they had already paid additionally for the extra person, and the eviction notice and attempt were held to be invalid.

EVALUATION & RECOMMENDATION: The landlord is not adhering to the Rent Law and Board determinations. Since he has come before the Board on this property already, further investigation is requested to determine if the Board needs to take action.

3. 1155 Hayes St. I002-53E & I001-04B  
(originally scheduled for 1/12/88)

The cases involve both an alleged wrongful eviction report and landlord's Petition for Extension of Time. The owner served eviction notices for improvements in October 1987. The Rent Board informed the owner that his notices were invalid on several counts; further, he had not filed for a time extension for work taking longer than 90 days. Upon receipt of the list of defects, the landlord immediately rescinded the notices and attempted to remedy all defects.

At the hearing on the Petition for Extension of Time, it was discovered that the owner and his wife intended to subcontract out some of the specialized work but perform the bulk of the tasks in their spare time. The landlord did not have a realistic idea of how long the work would take, and not all needed permits had been approved.

EVALUATION & RECOMMENDATION: The landlord understands that he has proceeded improperly. The case should be monitored and the landlord advised to approach the matter in a fully professional manner.

MSC: To accept staff recommendations on the above three  
eviction matters. (Payne/Morales: 4-0)

4. 2438 Jones St. I002-84E

The "original" tenant moved in in 1976; the subject tenant became her roommate in January 1985. The new tenant's rental agreement contained a clause that (1) the landlord had the right to vacate the apartment upon the departure of the original tenant; and (2) if the landlord decided to let the second tenant remain, any additional roommates would have to be approved by the owner.



In September 1987 the original tenant gave the landlord notice that she would vacate. Several days later the landlord gave the second tenant a [defective] termination notice based on the rental agreement clause on this issue. The owner later sent a letter stating that the eviction notice had been given with the intention of renovating the unit. He indicated that since the tenant was not honoring his agreement to move, the Rent Board said he could raise the rent to market value. He therefore asked for an increase from \$502 to \$850.

At the hearing the tenant testified that he had assumed when he signed the subject agreement that the vacancy clause was null and void as contrary to the Ordinance, and therefore he need not worry about it. The landlord's attorney argued, in a brief, that the Ordinance grants decontrol when the primary tenant vacates; and that the subject tenant was a mere roommate, not an approved tenant.

EVALUATION & RECOMMENDATION: Although the landlord may have, in good faith, misunderstood the Board's policy and therefore applied it incorrectly, there is sufficient evidence of wrongful intent to merit a Board letter. The first noticed was legally defective for failing to state a just cause or include an advice clause. The evidence suggested that when he realized there were problems with the original eviction notice, the landlord attempted to "cover his tracks" by saying renovation was intended. However, for somebody who had allegedly contacted the Rent Board repeatedly, the owner did not comply with any of the requirements of eviction for rehab. His attorney needs educating, as well.

MSC: To approve the staff recommendation on this matter.  
(Payne/Morales: 4-0)

B. Request for Reconsideration

1140 Sutter St. #501 I001-95A

Although the hearing officer recommends no Board action on this matter, the landlord requests further review by the Board based on objections to certain findings applicable to the denial of the tenant's petition.

MSC: To deny the request for reconsideration and to take no further action on the tenant's allegations.  
(Payne/Morales: 4-0)

C. Updates (originally scheduled for 1/12/88)

1. 1868 Page Street G166-46E

The landlord has sent the involved tenants formal written notice of the right to reoccupy, as strongly recommended by the Commissioners following a Board hearing on the cases.





2. 1321-4th Avenue I001-17E

This matter was originally referred to the Board in October 1987. Although a previous decision had invalidated the landlord's claim of owner-occupancy exemption, the landlord insisted the property was exempt and that he was filing a writ on the jurisdictional issue. It is recommended that the Board hold a hearing on the eviction matter and related landlord actions.

3. 2370 Union St. I001-85A

This case was originally referred to the Board in October 1987. The Commissioners had written the landlords a cautionary letter in November 1987, cautioning adherence to both state and local law in the matter of repairs and evictions. In late December the tenants received another 3-day notice for the amount of rent withheld pursuant to a successful tenant petition on leaks. It is believed that no 30-day notice of repair and reinstatement of the rent was sent, as was required by the decision. The tenant said they continue to inform the owner of leak problems, but the landlord or her roofers do not keep their appointments. This matter should be investigated further.

MSC: To accept Staff recommendations on all the above  
eviction matters. (Payne/Morales: 4-0)

VII. Old Business

- A. Commissioner Payne requested a status report on 949 Lombard St., referred for legal action by the Board on December 22, 1987 following the appeal hearing.
- B. Commissioner Payne also discussed the affect of the Board's inability to act at the Board meeting scheduled for 1/12/88.

VIII. New Business

Commissioner Payne requested possible Rent Board outreach at the main PG&E office to inform tenants of their right to protest increased utility costs which are a result of the landlord's conversion of the heating system.

IX. Communications

The Board received a copy of an article in the S.F. Recorder concerning a recent Court of Appeals decision (Buckhart v. S.F. Rent Board).

X. Calendar Items

February 2, 1988

6 appeal considerations (including 1 cont. from 1/26/88 and  
1 inadvertently omitted from the 1/26/88 Agenda)

Appeal Hearing:

6:00 731 47th Avenue #2 I001-86A (accepted 1/19/88)





February 9, 1988

4 appeal considerations

Appeal hearings:

5:45 309 Steiner #B I001-77A

Eviction Hearing:

6:30 1321 4th Avenue I001-17E

February 16, 1988

7 appeal considerations (originally scheduled for 1/12/88)

New Business: Election of Officers

February 23, 1988

5 appeal considerations

Appeal hearing

6:00 1580 Beach St. I001-98A (accepted 1/26/88)

XI. Adjournment

President Marshall adjourned the meeting at 8:51 p.m.





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2/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

February 2, 1988

\*\*\*\*\*

State Building, 350 McAllister St. #1158

\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

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- A. 1275 Greenwich St. I002-01A (cont. from 2/26/88)
- B. 4550 California St. #1 I001-69R  
(inadvertently omitted from 2/26/88 Agenda)
- C. 635 Lyon St. I002-01R
- D. 924 Fulton St. #305 I001-99R
- E. 1044-1050 Cole St. I002-03A
- F. 3309 - 21st St. #2 I002-05A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

Status Report: 949 Lombard St.  
(Bd. referred for legal action on 12/22/87)

- X. New Business
- XI. Appeal Hearing  
6:00 731 47th Ave. #2 I001-86A (accepted 1/19/88)
- XII. Calendar Items
- XIII. Adjournment  
1361A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 2,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

DOCUMENTS DEPT

President Marshall called the meeting to order at 5:40 p.m.

FEB 5 1988

II. Roll Call

SAN FRANCISCO  
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Commissioners Present: Alviar; Astle; Carrico; Gartzman;  
Marshall; Morales.  
Commissioners not Present: Waller.  
Staff Present: Hernandez; Wolf.

Commissioner Payne appeared on the record at 5:42 p.m.; Commissioner How  
appeared at 6:20 p.m.; Commissioners Alviar, Carrico and Morales went  
off the record at 7:24 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 26, 1988 with the  
following correction: Page 3, the motion for the appeal  
hearing regarding the case at 1790 Jackson #204 should  
read "To vacate the hearing officer's decision and find  
that the landlord is entitled to an operating expense  
increase effective November 1, 1987, with retroactive  
sums payable at the rate of \$25.00 per month until  
paid, and with no future operating expense increase for  
this debt service." (Morales/Carrico: 5-0)

IV. Consideration of Appeals

A. 1275 Greenwich St. #202, 204, 402 & 502  
1002-01A (cont. from 2/26/88)

The landlord appealed the hearing officer's denial of the landlord's  
petition for a capital improvement for new windows installed in order  
to implement a prior pass-through for other waterproofing work. The  
prior pass-through (No. F10-17C) was granted by the Board August 27,  
1985 in its consideration of the landlord's appeal of the 1985 decision.

The Commissioners requested a copy of the 1985 decision for review  
before making a final determination on this case, and therefore a  
motion was made and carried to continue consideration of this appeal  
for one week. At that time, a motion to deny the appeal had been made  
and seconded and was still on the floor.



MSF: To deny the appeal. (Alviar/Morales: 2-3; Alviar, Carrico, Payne dissenting)

MSC: To accept the appeal and schedule a hearing before the Board. (Payne/Alviar: 3-2; Marshall, Morales dissenting)

B. 4550 California St. #1 I001-69R

The tenants in one unit appeal the hearing officer's decision granting rent increases due to increased operating expenses and capital improvements. Although the building had been painted just two years ago, the hearing officer allowed the pass-through of the costs of a new paint job, as the previous paint job had not been charged to the tenants. The tenants believe that the work was unnecessary, and the new owner should not benefit from the previous owner's decision not to assess an increase.

MSC: To deny the appeal with the stipulation that the costs of the prior paint job cannot be passed through to these tenants. (Carrico/Alviar: 5-0)

C. 635 Lyon St. I002-01R

The tenant appeals the hearing officer's decision on remand. The original decision allowed the annual increase, finding that the landlord had made the necessary repairs; reinstated the previous base rent, finding that decreased housing services no longer existed; but disallowed banked increases due to the prior habitability problems and an incorrect anniversary date. On remand, the Board instructed the hearing officer to allow properly banked increases and re-examine the anniversary date issue.

The tenant's new appeal alleges that the base rent figure is incorrect; banked increases should not be transferrable upon change in ownership; the rent increase is retaliatory and poses a great hardship; and that the request for the annual increase prior to the anniversary date should render the entire rent increase null and void. Additionally, the tenant's representative requests that repayment of any sums owing be spread out, as the tenant's inability to reimburse the lump sum ordered by the hearing officer has led to an eviction action by the landlord.

MSC: To accept the appeal and remand the case to the same hearing officer for correction on the issue of the null and void rent increase only; there is to be no additional hearing on this matter. (Carrico/Alviar: 5-0)





D. 924 Fulton Street #305 I001-99R

One tenant appeals the hearing officer's decision granting the pass-through of capital improvement costs. The tenant alleges that re-roofing, painting and plumbing repairs are ordinary maintenance and that the owner's selection of eleven tenants for the increase constitutes discrimination.

MSC: To uphold the hearing officer's decision and deny the appeal. (Alviar/Morales: 5-0)

E. 1044-1050 Cole Street I002-03A

The landlord appeals the hearing officer's decision granting capital improvement pass-throughs but denying rent increases for operating expenses due to lack of documentation. The landlord asserts that the initial occupancy date for one of the units pre-dates the 6 month rule, as the tenant in residence is actually a sub-tenant, and that the notices of rent increase declared null and void by the hearing officer were timely given.

MSC: To accept the appeal on issues #1 and 3 raised in the landlord's appeal only, and schedule a new hearing to determine the move-in date of the tenant in unit number 1046. (Carrico/Alviar: 5-0)

F. 3309 21st Street #2 I002-05

The landlord appeals the hearing officer's decision denying rent reductions due to alleged decreased housing services, but declaring a proposed rent increase null and void. The landlord asserts that the Rent Board has no jurisdiction over this property as the Certificate of Occupancy was not issued until September of 1979. The hearing officer found that the tenants are covered by the protections of the Rent Ordinance because the building was occupied as early as January 1978 and the tenants lived in their unit beginning January 1979.

MSW: To deny the appeal. (Morales/Marshall)

MSC: To accept the appeal and schedule a hearing before the Commissioners. (Payne/Alviar: 5-0)

V. Appeal Hearing

731 47th Avenue #2 I001-86A (accepted 1/19/88)

The Board accepted the landlord's appeal of the hearing officer's decision on remand, which had held that the tenant was an "original tenant" as defined in the Board's De Wolf decision (Appeal No. B136-25) and therefore a rent increase upon the departure of his roommates was illegal. The hearing began at 6:20 p.m. and concluded at 7:42 p.m.  
1369A



The tenant represented himself. The landlord appeared with counsel and two witnesses.

Testimony at the hearing focused on when the tenant moved in and whether the property management company at that time had been aware of his presence. Upon conclusion of the hearing, the Commissioners discussed the case and made the following motion:

MSF: To vacate the hearing officer's decision; to set the base rent at \$780.40 as of December 31, 1987; and to refund sums owed to the landlord over a 3-month period commencing 30 days from issuance of the Board's decision. (Payne/How: 2-3; Gartzman, Marshall dissenting)

MSC: To vacate the hearing officer's decision; to set the base rent at \$780.40 as of December 31, 1987; and to refund sums owed to the landlord over a 6-month period commencing 30 days from issuance of the Board's decision. (Astle/Gartzman: 5-0)

#### VI. Communications

The Board received the following communications:

A. A copy of the appeal decision for the case at 191 5th Avenue #3 and 5 (I001-91A), which was approved by the Board and signed by President Marshall.

B. A newspaper article regarding legal action being taken by the City against the owner of the Sequoia Hotel for illegal conversion from residential to tourist units.

C. Notice of a hearing regarding proposed artist live-work space legislation.

#### VII. Director's Report

The Executive Director reported that he would be meeting with property managers from the West Side of the City on February 3, 1988.

#### VIII. Calendar Items

February 9, 1988

4 appeal considerations

Appeal hearing:

5:45 309 Steiner #B I001-77A

Eviction hearing:

6:30 1321 4th Avenue I001-17E

Old Business

Personnel matters



Status report: 949 Lombard Street

New Business:

Enforcement of eviction protections under the Ordinance.

February 16, 1988

7 appeal considerations (originally scheduled for 1/12/88)

New Business

Election of officers

February 23, 1988

6 appeal considerations

Appeal hearings:

6:00 1580 Beach St. I001-98A (accepted 1/26/88)

6:30 1275 Greenwich #202,204,402 & 502  
I002-01A (accepted 2/2/88)

March 1, 1988

6 appeal considerations

Appeal hearing:

6:00 3309 21st St. #2 I002-05A (accepted 2/2/88)

IX. Executive Session

The Board went into Executive Session at 8:05 p.m., pursuant to Government Code Section 54956.9(a), to discuss personnel matters. The Executive Session was closed at 8:14 p.m.

X. Adjournment

President Marshall adjourned the meeting at 8:15 p.m.





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#1  
2/9/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
February 9, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

FEB 5 1988

SAN FRANCISCO  
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- |    |                  |          |
|----|------------------|----------|
| A. | 830 Hayes St.    | I002-04A |
| B. | 1266 Stanyan St. | I002-07A |
| C. | 514 Haight St.   | I002-96A |
| D. | 9 August Alley   | I002-06A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Appeal Hearing

5:45 309 Steiner St. #B I001-77A (accepted 12/15/87)

- IX. Consideration of Allegations of Wrongful Evictions

Hearing  
6:30 1321 - 4th Ave. I001-17E

- X. Old Business
  - A. Status Report 949 Lombard St.  
(Board referred for legal action on 12/22/87)
  - B. Personnel Matters

- XI. New Business
  - Enforcement of eviction protections under the Rent Ordinance

- XII. Calendar Items

- XIII. Adjournment

1367A





FEB 17 1988

SAN FRANCISCO  
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#2  
2/9/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 9,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Vice-president Carrico called the meeting to order at 5:42 p.m.

II. Roll Call

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Carrico; Gartzman; Morales; Payne.       |
| Commissioners not Present: | Alviar; Astle; How; Marshall;<br>Waller. |
| Staff Present:             | Hernandez; Wicks.                        |

Commissioner Payne went off the record at 8:53 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 2, 1988, with the  
following corrections:  
p. 1, Roll Call: "Commissioners Alviar, Carrico and  
Morales went off the record at 6:24 p.m."  
p. 4, 731-47th Ave. #2, Appeal Hearing:  
MSF:...("...;Gartzman, Marshall, Astle dissenting)  
MSC: "...to set the base rent at \$780.00. . . ."  
(Payne/ Morales: 3-0)

IV. Consideration of Appeals

A. 830 Hayes St. I002-04A

The landlord appealed the hearing officer's decision which disallowed operating and maintenance increases, holding that the owner had received a 7% increase the previous year for essentially the same expenses when the property changed hands. On appeal the landlord argued that the expenses were actual, not manipulated, and should be allowed. Several tenants noted that the same residents continue to have hardship problems.

MS: To accept the case for a hearing at the Board level.  
(Payne/Carrico:)

MSC: To continue the motion to the next meeting.  
(Morales/Payne: 3-0)



B. 1266 Stanyan St.

I002-07A

This case involves a decision heard on remand pursuant to appeal, convened to clarify the issue of a null and void rent increase. On remand the hearing officer reaffirmed that two excessive increases were null and void and instructed the landlord on the allowable amounts which could be "banked." The landlord again appealed, protesting that all increases were given without malice and only the difference between the correct amount and that actually charged should be refunded, not the entire amount assessed.

MSW: To accept the case for hearing at the Board level.  
(Payne/Carrico:)

MSF: To uphold the hearing officer and deny the appeal.  
(Morales/Carrico: 2-1; Payne dissenting)

This case will be continued to the February 16, 1988 meeting.

C. 514 Haight St.

I002-96A

The landlord appeals the hearing officer's determination that replacement tenants were not on notice that their rent would be raised to market value upon removal of all "original" tenants. The hearing officer noted that none of the parties knew who the original tenants were and accordingly voided a 37% increase. On appeal the landlord maintained that he did not know the petitioning tenant and should not be held to have formed a tenancy with an unauthorized person. He further disputed the need for a written lease or rental agreement clause informing tenants of an increase upon vacancy by the last original tenant.

MSC: To uphold the hearing officer and deny the appeal.  
(Morales/Payne: 3-0)

D. 9 August Alley

I002-06A

The landlord's agent filed an appeal of a hearing officer's ruling denying an operating and maintenance increase. The tenants protested the increase on the basis of lack of required maintenance and neglect of requests for repairs. Additionally the debt service increase was felt to be unclear and not proven to be justified, as the property did not change hands and no separation of expenses or allocation of increases was made for a commercial garage operating on the premises. On appeal the agent challenged all the hearing officer's conclusions and denied their accuracy.

MSF: To remand the case to a new hearing officer for a new hearing. (Payne/Carrico: 2-1; Morales dissenting)

This case will be continued to the February 16, 1988 meeting.



V. Appeal Hearing

309 Steiner St. #B

I001-77A (accepted 12/15/87)

The hearing began on the record at 6:23 p.m. with both the landlord's agent and the tenants represented by counsel. The landlord's son and conservator testified that in 1981 his mother had attempted to institute a \$100 rent increase. This amount was not paid, and the conservator understood from his mother that the \$100 was forgiven--by oral agreement--in compensation for the tenant's agreeing to serve as the property's handyman. The landlord's son testified in 1984 he terminated the maintenance agreement because the tenant's work was unsatisfactory. Subsequently a rent increase of \$100 was noticed as a reinstatement of the rent subtracted in exchange for repair services. In rebuttal the tenant argued that he had never entered into a contract with the landlord for handyman services, and that he only did repairs on the property twice in emergency circumstances, as a favor to the owner. He testified, however, that he did have an understanding with the owner that the \$100 increase need not be paid. The hearing was closed at 7:28 p.m.

After discussing the matter, it was the consensus of the Board to continue their deliberations to the February 16, 1988 meeting.

VI. Consideration of Allegations of Wrongful Eviction

Hearing

1321-4th Avenue

I001-17E

The hearing began on the record at 7:32 p.m. Appearing were the landlord and tenant, with their legal representatives. At issue were wrongful eviction attempts and alleged harassment, previously so categorized by a hearing officer. The tenant testified that the four-level building has approximately seven separate tenancies, including one floor that features a four-person guest house. The landlord had argued that the property was owner-occupied exempt since he took up residence there in late 1982; in 1985 the Board had rejected the landlord's appeal and affirmed jurisdiction. At the present hearing the tenant testified to a long history of repair requests that went unanswered. One such request was followed by an improper rent increase, later rescinded. In 1984 she informed the owner she would request a BBI inspection; several days later she received an eviction notice for owner-occupancy. A later 1985 rent increase over 4% was disallowed by a hearing officer.

Shortly thereafter the parties entered into a 21 month lease which included the landlord's agreeing to make stated repairs. Upon the termination of the lease period, the owner informed the tenant in writing that her tenancy was over. The parties disagreed as to whether or not their original understanding was that the tenant would vacate at the end of the lease. They also disagreed that the landlord had wrongfully evicted other tenants and exhibited harassing behavior toward this tenant.

1371A



After discussing the case, the Commissioners voted as follows:

- MSC: To reaffirm that the building is under the jurisdiction of the Rent Ordinance. (Payne/Morales: 3-0)
- MSC: To find that the landlord's letter of June 10, 1987, constituted a notice to vacate and is legally defective and of no force or effect. (Morales/Payne: 3-0)
- MSC: To ask the Eviction Unit to monitor the property and to encourage the landlord to seek legal advice before taking legal actions. (Carrico/Payne: 3-0)

VII. Calendar Items

February 16, 1987

10 appeal considerations (including 3 continued from 2/9/88) and 7 scheduled for 1/12/88)

Old Business: -discussion of 309 Steiner #B (heard 2/9/88)  
-status report on 949 Lombard (heard 12/2/87)  
-personnel matters

New Business: -election of officers  
-enforcement of Ordinance eviction protections

February 23, 1987

6 appeal considerations

Appeal hearings:

|      |                                      |                             |
|------|--------------------------------------|-----------------------------|
| 6:00 | 1580 Beach St.                       | I001-98A (accepted 1/26/88) |
| 6:30 | 1275 Greenwich #202, 204, 402, & 502 |                             |
|      |                                      | I002-01A (accepted 2/2/88)  |

Eviction Case Summaries

March 1, 1988

6 appeal considerations

Appeal hearing:

|      |                    |                            |
|------|--------------------|----------------------------|
| 6:00 | 3309 - 21st St. #2 | I002-05A (accepted 2/2/88) |
|------|--------------------|----------------------------|

VIII. Adjournment

For lack of a quorum, the remainder of the agenda was continued and the meeting adjourned by Vice-president Carrico at 8:53 p.m.













NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
February 16, 1988

DOCUMENTS DEPT.

FEB 17 1988

State Building, 350 McAllister St. #1158

SAN FRANCISCO  
PUBLIC LIBRARY

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals (\*originally scheduled for 1/12/88)
  - A. 371 Turk St. #24\* I001-84A (cont. from 1/5/88)
  - B. 1455 Hyde St.\* I001-51R
  - C. 1100 Gough St. #19D\* I001-89A
  - D. 1400 Washington St. I001-52R through I001-57R  
#9, 10, 14, 15, 16 & 17\*
  - E. 895-A Noe St.\* I001-90A
  - F. 1240 Hayes St.\* I001-92A
  - G. 160 Pierce St. #4\* I001-93A
  - H. 830 Hayes I002-04A (contd. from 2/9/88)
  - I. 1266 Stanyan I002-07A (contd. from 2/9/88)
  - J. 9 August Alley I002-06A (contd. from 2/9/88)
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Old Business
  - Discussion of 309 Steiner #B I001-77A (heard 2/9/88)
  - Status Report on 949 Lombard I001-73A (heard 12/2/87)
  - Personnel Matters
- IX. New Business
  - Election of Officers
  - Enforcement of Ordinance Eviction Protections
- X. Calendar Items
- XI. Adjournment

1341A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 16,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

DOCUMENTS DEPT.

President Marshall called the meeting to order at 5:32 p.m.

FEB 19 1988

II. Roll Call

SAN FRANCISCO  
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Commissioners Present: Astle; Marshall; Morales; Payne.  
Commissioners not Present: Alviar; How; Waller.  
Staff Present: Hernandez; Wolf

Commissioner Carrico appeared on the record at 5:40 p.m. and  
Commissioner Gartzman arrived at 5:51 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 9, 1988 as written.  
(Morales/Payne: 4-0)

IV. Consideration of Appeals

A. 371 Turk St. #24 I001-84A

The landlord appealed the hearing officer's decision granting a  
decrease in service petition for rent reductions to compensate for  
holes in the tenants' kitchen. On appeal the owner stated that he and  
his representative had made several attempts to enter to make repairs  
but have been refused access to the apartment.

MSC: To uphold the hearing officer and deny the appeal.  
(Morales/Astle: 4-0)

B. 1455 Hyde Street I001-51R

A tenant receiving capital improvement increases appealed the hearing  
officer's ruling. He maintained on appeal, as he had at the hearing,  
that the increases should not be granted in whole or part because the  
landlord did not have necessary permits to do the work and his deferred  
maintenance caused the work to be more extensive than otherwise  
necessary.

MSC: To uphold the hearing officer and deny the appeal.  
(Astle/Morales: 4-0)



C. 1100 Gough Street #19D I001-89A

This case remanded upon appeal was limited to the issue of whether or not the manager accepted and held special mail delivered by the mail carrier for the involved tenant. On remand the hearing officer upheld the prior decision, approving a rent rebate for decrease in service for reduction of this service. On appeal the landlord argued that the award was not supported by evidence.

MSC: To uphold the hearing officer and deny the appeal.  
(Morales/Astle: 3-1; Payne dissenting)

D. 1400 Washington I001-52R through I001-57R  
Units 9, 10, 14, 15, 16, 17

Six tenants appealed a hearing officer's ruling granting operating and maintenance cost increases. Among the tenants' arguments were the following: management costs increased nearly \$7,000.00 but the hearing officer ruled that very little upkeep had been done on the building; the tenants have shown repeated requests for repairs, but the hearing officer did not consider this properly as a defense to the increase; the landlord should not be allowed the increases on interest he pays on the loan.

MSC: To remand the case to the hearing officer to consider the failure to repair defense mentioned by the tenants. If any tenant petitions are outstanding, the matters shall be consolidated. (Astle/Morales: 4-0)

E. 895 Noe Street #A I001-90A

The tenant prevailed on a decrease in services petition, showing lack of working shower, no working freezer, several leaks, lack of all necessary keys, and presence of debris barring egress. On appeal the landlord maintained that some of the services had not been provided originally, some had always been provided, and all necessary repairs were completed.

MSC: To remand to the same hearing officer with instructions that the Board believes the amounts of the rent reductions are excessive. (Payne/Astle: 4-0)

F. 1240 Hayes Street I001-92A

The landlords appealed the ruling of the hearing officer, granting some capital improvements but denying sidewalk repair, replacement of a garbage container, and repainting of common hallways which were the subject of a capital improvement increase petition on earlier painting 2 years before. On appeal the landlords challenged categorization of sidewalk work as a repair and the new garbage container as mere replacement. They further pointed out that although the prior hallway 1377A





painting expenses had been petitioned for 2 years ago, the work was actually performed 5 years ago. Technical corrections were also requested.

MSC: To remand the case to the same hearing officer to consider the issues raised on appeal. (Payne/Carrico: 3-2; Marshall, Morales dissenting)

G. 160 Pierce Street #4 I001-93A

On appeal the landlord's representative questioned the hearing officer's granting of rent reductions of 5% for lack of pest control and 2% for inoperable electrical sockets; other requested reductions were denied for lack of notice to the landlord. The landlord's representative argued that there had been no decrease in extermination service and that the electric sockets - until recently repaired - were in the same condition as when the tenant took up tenancy.

MSC: To remand for technical corrections in clarifying the duration of the rent reductions. (Astle/Morales: 5-0)

H. 830 Hayes Street I002-04A (continued from 2/9/88)

The landlord appealed the hearing officer's decision which disallowed operating and maintenance increases, holding that the owner had received a 7% increase the previous year for essentially the same expenses when the property changed hands. On appeal the landlord argued that the expenses were actual, not manipulated, and should be allowed. Several tenants noted that the same residents continue to have hardship problems.

MSC: To accept the appeal and schedule a Board hearing on the issue of the increased taxes only. (Payne/Carrico: 5-0)

I. 1266 Stanyan Street I002-07A (continued from 2/9/88)

This case involves a decision heard on remand pursuant to appeal, convened to clarify the issue of a null and void rent increase. On remand the hearing officer reaffirmed that two excessive increases were null and void and instructed the landlord on the allowable amounts which could be "banked." The landlord again appealed, protesting that all increases were given without malice and only the difference between the correct amount and that actually charged should be refunded, not the entire amount assessed.

MSC: To uphold the hearing officer and deny the appeal. (Morales/Astle: 3-2; Carrico, Payne dissenting)



J. 9 August Alley

I002-06 (continued from 2/9/88)

The landlord's agent filed an appeal of a hearing officer's ruling denying an operating and maintenance increase. The tenants protested the increase on the basis of lack of required maintenance and neglect of requests for repairs. Additionally, the debt service increase was felt to be unclear and not proven to be justified, as the property did not change hands and no separation of expenses or allocation of increases was made for a commercial garage operating on the premises. On appeal the agent challenged all of the hearing officer's conclusions and denied their accuracy.

MSF: To remand this case to a new hearing officer for a new hearing. (Payne/Carrico: 2-3; Astle, Marshall, Morales dissenting)

MSC: To remand this case to the same hearing officer to specifically address the defenses to rent increases contained in Section 6.12 of the Rules and Regulations; to allow insurance paid in escrow as an operating expense; to completely gather facts regarding the debt service; and to consider all other issues raised on appeal. (Payne/Carrico: 4-1; Morales dissenting)

#### V. Communications

The Board received the following communications:

- A. A request for postponement of the appeal hearing for 1275 Greenwich Street (I002-01A), originally scheduled for February 23rd, which was granted.
- B. The monthly workload statistics for January, 1988.
- C. The appeal decision for the case at 731 47th Avenue #2, which was approved by the Board and signed by President Marshall.
- D. The appeal decision for the case at 1790 Jackson Street, which will be re-drafted by staff.

#### VI. Old Business

A. The Commissioners received staff's calculations regarding the amount of rent overpayment in the case at 309 Steiner #3 heard on February 9, 1988, and made the following motion:

MSC: To excuse Commissioner Marshall from consideration of this appeal. (Astle/Payne: 5-0)



MSC: That the base rent is \$392.62; the next allowable annual increase may take effect on April 1, 1988; and the amount of the overpayment is reduced to \$1,109.51. (Astle/Payne: 4-0)

B. Staff reported on the status of the case at 949 Lombard Street, referred for legal action by the Board on December 22, 1987, following the appeal hearing.

VII. Executive Session

The Board went into Executive Session at 7:10 p.m., pursuant to Government Code Section 54956.0(a), to discuss personnel matters. The Executive Session was closed at 7:20 p.m.

VIII. New Business

By motions, seconded and unanimously carried, the Board elected new officers: Tim Carrico is the new President; James Morales is the new Vice-President; and out-going President Marshall was commended for her excellent year of service. Congratulations to all!

IX. Calendar Items

February 23, 1988

6 appeal considerations.

Appeal hearing:

6:00 1580 Beach Street I001-98A (accepted 1/26/88)  
Eviction case summaries.

March 1, 1988

6 appeal considerations

Appeal hearing:

6:00 3309 21st Street #2 I002-05A (accepted 2/2/88)

March 8, 1988

6 appeal considerations.

2 eviction reconsiderations.

Appeal hearing:

6:00 830 Hayes I002-04A (accepted 2/16/88)  
Old Business: status report on 949 Lombard (heard 12/2/87)

X. Adjournment

President Carrico adjourned the meeting at 7:25 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

February 23, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

\*\*\*\*\*

DOCUMENTS DEPT.

FEB 19 1988

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

|    |                         |          |
|----|-------------------------|----------|
| A. | 536 Leavenworth St. #43 | I002-02R |
| B. | 2999 Pacific Ave. #6    | I002-08A |
| C. | 300 Buchanan St.        | I002-09A |
| D. | 221 Balboa St.          | I002-10A |
| E. | 1845 Golden Gate Ave.   | I002-03R |
| F. | 191 - 5th Ave. #2       | I002-13A |

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

## Report from Staff

|    |                        |          |
|----|------------------------|----------|
| A. | 1341 - 26th Ave.       | I003-06E |
| B. | 5450 California St. #1 | I002-76E |
| C. | 973 Howard St. #3      | I003-28E |
| D. | 878 Douglass           | I002-77E |

IX. Old Business

X. New Business

XI. Appeal Hearing

6:00 1580 Beach St. I002-98A (accepted 1/26/88)

XII. Calendar Items

XIII. Adjournment  
1375A







SF  
R52 2/22/88  
#2

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 23 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

\*\*\*\*\*

DOCUMENTS DEPT

I. Call to Order

FEB 29 1988

President Carrico called the meeting to order at 5:39 p.m.

SAN FRANCISCO  
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Astle; Carrico; Marshall; Morales.  
Commissioners not Present: Alviar; Gartzman; How; Waller.  
Staff Present: Hernandez; O'Hearn.

Commissioner Payne appeared on the record at 5:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 16, 1988, as corrected. (Astle/Marshall: 4-0)

IV. Consideration of Appeals

A. 536 Leavenworth St. #43 I002-02R

The tenant appeals the dismissal of her petition and states that she failed to appear at the hearing or file a written excuse for non-appearance before the hearing because she was out of town.

MSC: To remand the case to another hearing officer for a new hearing. (Astle/Marshall: 5-0)

B. 2999 Pacific Ave. I002-08A  
units 1, 3, 4 & 5

The landlord appeals the hearing officer's denial of an operating and maintenance increase even though she received such an increase pursuant to a prior petition approximately one year earlier. Pursuant to the prior petition, the landlord also received capital improvement increases of up to \$405 per month per unit and pursuant to the instant petition, she received an additional capital improvement increase of \$101 per month per unit.

The landlord disputes the hearing officer's reasons for denying the second operating and maintenance increase, which include the disallowance of legal and filing fees associated with the prior petition, as well as the disallowance of other fees and insurance costs. The Commissioners expressed concern about the insurance costs, but found the inclusion of such costs would not justify the operating expense rent increase.

MSC: To deny the appeal. (Morales/Marshall: 5-0)



C. 300 Buchanan St.

I002-09A

The landlord appeals a remand decision issued pursuant to the landlord's appeal of the original decision. The hearing officers, in both cases, granted the 15 tenants' petitions for rent decreases based on lack of elevator service and for certain tenants on lack of pest control service. On remand, the hearing officer reduced the 7-month period elevator decrease to 6 1/3 months and reduced the 35% decrease amount for all tenants to 10% for tenants on floors 1 and 2 and to 25% for tenants on floors 3 through 6. The hearing officer also reduced the pest control service decrease from 10% (ranging from \$35 to \$45) to \$25 per month.

The landlord argues, as he did on the first appeal, that the loss of elevator service resulted from repair work in progress. By supplement to the appeal, the landlord also argues, as he did on the first appeal, that he had not received adequate notice from the tenants about the pest control problem.

MSF: To accept the appeal for Board hearing limited to the issues of the elevator decrease (amount, allocation and time period). (Payne/Carrico: 2-3; Astle, Marshall and Morales dissenting.)

MSC: To deny the appeal. (Morales/Marshall: 3-2; Payne and Carrico dissenting.)

D. 221 Balboa St.

I002-10A

The landlord appeals the denial of his petition for an operating and maintenance increase. The hearing officer denied the proposed increase because the landlord had not provided sufficient documentation to prove increased operating costs. The landlord submits additional documents with his appeal.

MSC: To deny the appeal without prejudice to the filing of a new petition and to instruct staff to advise the landlord of his right to a possible capital improvement passthrough. (Marshall/Astle: 4-1; Payne dissenting.)

E. 1845 Golden Gate Ave.

I002-03R

The tenant submits an appeal 53 days after the decision was mailed and claims that she had not received the decision after that mailing. The hearing officer determined that the property is exempt from the Rent Ordinance based on owner-occupancy even though the owner no longer physically resides at the property because of medical disabilities. The tenant contends on appeal that the landlord moved from the property before being hospitalized in 1986.

MSF: To deny the appeal. (Payne/Carrico: 2-3; Astle, Marshall and Morales dissenting.)

MSC: To accept the appeal for Board hearing. (Morales/Marshall: 3-2; Payne and Carrico dissenting.)



191- 5th Ave. #2

I002-13A

The landlord appeals the remand decision granting the tenant's petition for rent decrease based on the housing service reductions of laundry facilities (\$25.00), free heating (\$37.14) and intercom facilities (\$10/mo. through July 1987). Following the landlord's appeal of the original decision, the Board directed the hearing officer to set a monthly amount for any determinable utility service decreases.

In his appeal of the remand decision, the landlord states that when he filed the appeal of the original decision, he switched the heating power from the tenant's electric panel to the landlord's own panel to provide the same 12 hours per day heat which had been provided before the heat conversion in April 1987. The tenant responds that she has suffered heat loss and at times no heat, as well as higher utility bills.

MSC: To deny the appeal, but to direct staff to contact the parties to ascertain whether a technical correction of the remand decision is in order. (Astle/Marshall: 5-0)

V. Appeal Hearing

1580 Beach Street

I002-98A

The appeal hearing on the landlords' appeal on their capital improvement petition commenced at 6:35 p.m. Both landlords appeared with their attorney and the tenants of nine units appeared and represented themselves. The landlords contest the rent overcharge determination resulting from the previous owner's imposition of a \$50 increase in 1982 purportedly for capital improvement work and of a "utility charge" in 1985 purportedly for a PG&E passthrough following the annual increase.

Following testimony and argument from the parties, the hearing concluded at 7:53 p.m. The Commissioners then discussed the case and voted to modify the hearing officer's decision as follows:

MSC: To apply the \$50 increase as a total maximum increase for both the annual increase and a capital improvement passthrough amortized over the appropriate time period; to null and void the "utility charge;" and to limit additional capital improvement increases to work performed after 1982. (Astle/Payne: 4-1; Morales dissenting.)

VI. Communications

The Board received the following communications, in addition to those concerning the above appeal hearing and the above appeal consideration for 191 - 5th Ave. #2:

- A. the Board Decision on Appeal for 1790 Jackson St. #204 (rendered on January 26, 1988) which was approved and signed;



- B. a confidential letter from the Board to a hearing officer which was approved as corrected; and
- C. a memo from the City Attorney to all Boards, Commissions and Department Heads concerning the solicitation or acceptance of campaign contributions by appointed Board members.

VII. Consideration of Allegations of Wrongful Evictions

Since some of the Commissioners had not received the documents for the staff report on the scheduled cases, the Board continued its consideration of these matters to the next Board meeting.

VIII. Calendar Items

March 1, 1988

6 appeal considerations  
4 eviction case summaries

Appeal hearing:

6:00 3309 21st Street #2 I002-05A (accepted 2/2/88)

March 8, 1988

7 appeal considerations.  
2 eviction reconsiderations.

Appeal hearing:

6:00 830 Hayes I002-04A (accepted 2/16/88)  
Old Business: status report on 949 Lombard (heard 12/2/87)

March 15, 1988

Executive session: Lee v. SFRRSAB  
Appeal considerations

Appeal hearings:

6:00 1275 Greenwich I002-01A (accepted 2/2/88)  
6:45 1845 Golden Gate Ave. #4 I002-03R (accepted 2/23/88)

IX. Adjournment

President Carrico adjourned the meeting at 8:27 p.m.









SF  
R52  
#1  
3/1/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

March 1, 1988

State Building, 350 McAllister St. #1158

AGENDA

\*\*\*\*\*

DOCUMENTS DEPT.

FEB 29 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

|    |                     |          |
|----|---------------------|----------|
| A. | 4295 - 24th St.     | I002-12A |
| B. | 1567 Jackson St. #4 | I002-05R |
| C. | 1526 - 48th Ave.    | I002-04R |
| D. | 7004 California St. | I002-11A |
| E. | 516 Ellis St. #406  | I002-14A |
| F. | 2922 - 23rd St.     | I002-15A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

|    |                        |          |
|----|------------------------|----------|
| A. | 1341 - 26th Ave.       | I003-06E |
| B. | 5450 California St. #1 | I002-76E |
| C. | 973 Howard St. #3      | I003-28E |
| D. | 878 Douglass           | I002-77E |

- IX. Old Business

- X. New Business

- XI. Appeal Hearing

6:00 3309 - 21st St. #2 I002-05A (accepted 2/2/88)

- XII. Calendar Items

- XIII. Adjournment

1378A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 1, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DOCUMENTS DEPT

MAR 8 1988

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

President Carrico called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Gartzman;  
Marshall; Morales.  
Commissioners not Present: Alviar; How; Payne.  
Staff Present: Wolf.

Commissioner Waller arrived on the record at 6:20 p.m.; Commissioner  
Astle went off the record at 7:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 23, 1988 as written.  
(Morales/Astle: 4-0)

IV. Consideration of Appeals

A. 4295 24th Street I002-12A

The landlord appeals the hearing officer's decision granting a rent reduction due to a leaky roof. The landlord alleges that good faith efforts were made to repair the roof prior to it becoming clear that a new roof was necessary; the amount of the award is excessive; and the time period awarded is incorrect.

MSW: To deny the appeal.

MSC: To remand the case to the same hearing officer to  
consider the number of days of actual rainfall and the  
amount of the award. (Astle/Marshall: 4-0)

B. 1567 Jackson Street #4 I002-05R

The tenant appeals the hearing officer's decision refunding rent overcharges but finding no wrongful eviction attempt by the landlord. The hearing officer refunded only the amounts charged in excess of the allowable increase amounts; the tenant maintains that each of the increases should be rendered nul and void.

MSF: To remand this case to the same hearing officer for a  
new hearing. (Marshall/Morales: 2-2; Astle, Carrico  
dissenting)



MSC: To accept the landlord's appeal and schedule a hearing before the Board. (Astle/Carrico: 4-0)

C. 1526 48th Avenue I002-04R

The tenant appeals the hearing officer's certification of capital improvements on the grounds that: required permits had not been issued for the work; the pass-through is in retaliation for a failure to repair petition in which the tenant prevailed; and the allocation of costs equally to the two units in the building is unfair, as the units are different sizes.

MSC: To deny the appeal except for the issue of allocation of window costs, which shall be remanded to the hearing officer for a technical correction. (Astle/Marshall: 4-0)

D. 7004 California Street I002-11A

The landlord, who did not appear at the properly scheduled hearing, appeals the refund of a null and void rent increase. The landlord maintains that she did not receive notice of the hearing; that she therefore, did not receive credit for amounts she has already paid back; and that the amount awarded is unfair and punitive.

MSC: To deny the appeal except that staff will issue a technical correction crediting the landlord with any amounts already paid back. (Marshall/Morales: 3-1; Carrico dissenting)

E. 516 Ellis Street #406 I002-14A

The landlord appeals the hearing officer's decision refunding rent overcharges, maintaining that he assumed his postponement request had been granted and therefore did not appear at the hearing.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing; and to consolidate any outstanding cases regarding this property. (Astle/Morales: 4-0)

F. 2922 23rd Street I002-15A

The landlord appeals the hearing officer's granting of rent reductions due to the loss of use of the back yard and basement storage area. The landlord feels that the hearing officer was biased in favor of the tenant; that the rental agreement provides for use of the apartment only; that efforts are currently underway to render the basement safe for storage; and that the tenant was only deprived of a small portion of the yard.



MSC: To uphold the hearing officer's decision and deny the appeal. (Morales/Astle: 4-0)

V. Communications

The Board received the following communications:

A. A request for postponement of the appeal hearing for 1275 Greenwich (I002-01A), scheduled for March 15th, which was granted.

B. The February 1988 workload statistics.

C. The appeal decision for 309 Steiner #B, which was approved by the Board and signed by President Carrico.

D. Correspondence regarding the appeal for 1567 Jackson (I003-01E and I004-47T).

E. Newspaper articles regarding the Court of Appeal's affirmation of the return of non-refundable security deposits to Parkmerced tenants and the U.S. Supreme Court's upholding of the hardship provision of the San Jose rent law.

VI. Director's Report

As the Executive Director was detained at the Residential Demolition Task Force, a discussion of zero based budgeting and historical analysis of the Board's workload will be continued to the Old Business portion of next week's agenda.

VII. Evictions

Report from staff

A. 973 Howard St. #3 I003-28E (originally scheduled for February 23, 1988)

The tenant and her husband took up residency in this residential hotel in 1976. Shortly after the death of the tenant's husband in November 1987, the landlords issued a 5-day notice of rent increase from \$110.00 to \$170.00. They maintained that a rent reduction for the provision of managerial services had been in effect, a position they were unable to support at the hearing. Several wrongful eviction notices ensued, along with threatening and harassing behavior by the building manager.

Evaluation and Recommendation:

These landlords have either no knowledge of the requirements of the Ordinance or no intent to follow its provisions: they gave several oral rent increases of 10% and 11%, at various times during the year; changes in terms were given with only 3-5 days' notice; and all





eviction notices were technically defective. Further, they directed the manager to attempt to get the tenant to pay or move and are responsible, at least indirectly, for his intimidating behavior. The case should be monitored and a strongly-worded letter sent to the landlords and manager. Further action should be taken if the landlord continues with the rent increases, eviction attempts, or harassment.

B. 5450 California St. #1 I002-76E (originally scheduled for February 23, 1988)

There is a long history of repair requests by this tenant. Because of construction work in the garage in 1987, cracks appeared in the wall, ceiling, tiles and fixtures of the tenant's unit. The tenant called the Bureau of Building Inspection and the landlord was cited for doing the work without permits. The notice was posted on October 20, 1987; the next day the tenant was given an eviction notice for occupancy by the owner's son. Two units in the building were vacant approximately 2-3 months prior; and another property owned by the landlords had a "for rent" sign in a window during the notice period.

Evaluation and Recommendation:

The long history of bad feelings between the parties, the timing of the notice right after a tenant-initiated BBI inspection, and the availability of other units shortly before service on the tenants suggest bad faith and retaliatory motive. As the matter is currently in court, it is suggested that a cautionary letter be sent to the landlords, advising them that the Board will monitor the court case and consider further action.

D. 1341 26th Avenue I003-06E (originally scheduled for February 23, 1988)

There exists a history of repair needs on the premises going unattended to, with two personal injury suits having been filed by the tenants. These tenants have occupied their unit since around 1980; new tenants moved in upstairs in June 1987. Relations between the tenants in the two units were strained, resulting in several verbal altercations. In October 1987 the landlord wrote the tenants, telling them to remove all but one vehicle from the garage; refrain from commercial use of the garage; remove a previously approved hot tub in that area; and refrain from parking on the sidewalk. In November 1987 a formal 3-day notice to quit - without opportunity to cure - was sent, citing: threatening the safety of the upstairs tenants; discharging a firearm; excessive noise; and destroying the upstairs residents' property. The police found no merit to the firearms complaint.

The landlord admitted at the hearing that he had no personal knowledge of any of these allegations, with one minor exception, and had made no effort to establish their veracity. The upstairs unit was vacated in December 1987.



Evaluation and Recommendation:

While the landlord's actions may have stemmed, in part, from concerns regarding the safety of the upstairs tenants, the hearing officer was also concerned regarding possible retaliatory motives and felt that the landlord exhibited a lack of diligence in pursuing his legal responsibilities.

The landlord's attorney filed a UD the afternoon of the first hearing date. It appears that improper legal procedures may have been followed by the landlord's attorney. Further, the landlord died February 4th; his wife and co-owner was added as the plaintiff, but apparently she took no part in managing the property or being a party to any of the above events. It is suggested that a letter be written from the Commissioners informing the landlady and attorney that the Rent Board seriously doubts the existence of a just cause reason for eviction and that the Board will consider taking further action if the U.D. is pursued.

E. 878 Douglass

I002-77E (originally scheduled for  
February 23, 1988)

The tenant lives in a separate, 3-room cottage in the rear of a building occupied by the owner's mother. In February, March and May of 1987, several defective eviction notices were issued; no just cause reason was given. In August 1987 the owner granted a 50% interest in the property to his mother; the next day, the landlord's attorney issued another defection eviction notice. An accompanying letter noted that the cottage was needed for a caretaker and referred to difficulties in the tenant's relationship with the landlord's mother. The landlord's attorney maintained that the property was now owner-occupied and therefore exempt; he later rescinded the eviction pending the requisite six months of holding title.

Neither the landlord or his attorney appeared at the hearing on this matter, as the attorney believes that the Rent Board has no authority to investigate evictions. The landlord's mother, however, did appear and affirmed that the two buildings are structurally separate; the tenant's unit is, therefore, covered by the Ordinance. The landlord's mother testified that she has continued to pay rent to her son even after the grant deed was recorded; that she paid no consideration for her interest in the property; and that "it was the attorney's idea when he thought it was a duplex." The hearing officer held that there was a prima facie showing that the deed transfer was entered into solely for the purpose of circumventing the Ordinance.

Evaluation and Recommendation:

Given the landlord's attorney's erroneous belief that the property consisted of two connected units and the testimony of the grantee, it appears that the deed transfer was suggested as a way of avoiding the protections of the Ordinance. It is recommended that a hearing be held



by the Board to investigate this possibility and the attorney's involvement therein. Further, the case should be monitored and possibly referred to the City Attorney or District Attorney if the eviction is pursued, since clearly no just cause exists.

MSC: To accept staff recommendations regarding cases A, B, and D above. (Astle/Carrico: 4-0)

MSC: To excuse Commissioner Carrico from consideration of Case #C, 878 Douglass Street, above. (Astle/Carrico: 4-0)

MSC: To continue consideration of the case at 878 Douglass Street for one week. (Astle/Marshall: 3-0)

#### VIII. Appeal Hearing

3309 21st Street #2

I002-05A (accepted 2/2/88)

The landlord appealed the hearing officer's decision denying rent reductions due to alleged decreased housing services, but declaring a proposed rent increase null and void. The landlord asserted that the Rent Board has no jurisdiction over this property as the Certificate of Occupancy was not issued until September of 1979. The hearing officer found that the tenants are covered by the protections of the Rent Ordinance because the building was occupied as early as January 1978 and the tenants lived in their unit beginning January 1979. The hearing before the Commissioners was limited to the jurisdictional issue only.

The hearing was scheduled to begin at 6:00 p.m. As the landlord had not yet arrived, commencement the hearing was delayed until 6:35 p.m. The parties appeared and represented themselves. Testimony focused on circumstances surrounding construction of the building; the tenant's occupancy therein; and the landlord's understanding at the time he acquired the property. The hearing concluded at 7:00 p.m., at which time the Board members discussed the case and made the following motion:

MSC: To uphold the hearing officer's decision and deny the appeal. (Marshall/Morales: 3-1; Carrico dissenting)

#### IX. Calendar Items

March 8, 1988

7 appeal considerations

2 eviction reconsiderations

Appeal hearing

6:00 830 Hayes

I002-04A (accepted 2/16/88)



Old Business

Status report on 949 Lombard (heard 12/2/87)

Discussion of budget issues, number of petitions filed

Staff Report re: Wrongful Eviction: 878 Douglass (I002-77E)

March 15, 1988

Executive Session: Lee V SFRRSAB

4 appeal considerations

Appeal hearings

|      |                          |                             |
|------|--------------------------|-----------------------------|
| 6:00 | 1567 Jackson #4          | I002-05R (accepted 3/1/88)  |
| 7:00 | 1848 Golden Gate Ave. #4 | I002-03R (accepted 2/23/88) |

X. Adjournment

President Carrico adjourned the meeting at 7:10 p.m.







SF  
R52  
#1  
3/8/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
March 8, 1988

State Building, 350 McAllister St. #1158

AGENDA

- |       |  |                                 |
|-------|--|---------------------------------|
| I.    | Call to Order                                      | DOCUMENTS DEPT.                 |
| II.   | Roll Call  | MAR 8 1988                      |
| III.  | Approval of the Minutes                            | SAN FRANCISCO<br>PUBLIC LIBRARY |
| IV.   | Consideration of Appeals                           |                                 |
|       | A. 536 Leavenworth #26, 41, 65, 85, 94 & 1102      | I002-06R & I002-17A             |
|       | B. 444 Larkin #10                                  | I002-16A                        |
|       | C. 60 Parkridge #2                                 | I002-18A                        |
|       | D. 821-825A Vallejo                                | I002-20A                        |
|       | E. 2500 Chestnut #2, 12 & 15                       | I002-08 Through I002-10R        |
|       | F. 495 27th Avenue                                 | I002-07R                        |
|       | G. 1025 Treat                                      | I002-22A                        |
| V.    | Communications                                     |                                 |
| VI.   | Director's Report                                  |                                 |
| VII.  | Consideration of Allegations of Wrongful Evictions |                                 |
|       | Requests for Reconsideration                       |                                 |
|       | A. 156 Missouri #2                                 | I002-21A                        |
|       | B. 191 5th Avenue #3                               | I002-23A                        |
| VIII. | Old Business                                       |                                 |
| IX.   | New Business                                       |                                 |
| X.    | Appeal Hearing                                     |                                 |
| 6:00  | 830 Hayes Street                                   | I002-04A (accepted 2/16/88)     |
| XI.   | Calendar Items                                     |                                 |
| XII.  | Remarks from the Public                            |                                 |
| XIII. | Adjournment  |                                 |





SF  
R52  
#2  
3/8/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 8, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Alviar; Astle; Carrico; Morales;<br>Waller. |
| Commissioners not Present: | Gartzman; How; Marshall; Payne.             |
| Staff Present:             | Wicks.                                      |

Commissioner Carrico went off the record at 7:25 p.m. DOCUMENTS DEPT.

III. Approval of the Minutes

MAR 14 1988

|      |  |                                 |
|------|--|---------------------------------|
| MSC: | To approve the Minutes of March 1, 1988. | SAN FRANCISCO<br>PUBLIC LIBRARY |
|      | (Morales/Alviar: 4-0)                    |                                 |

IV. Consideration of Appeals

A. 536 Leavenworth St. I002-06R & I002-17A  
units 26, 41, 65, 85, 94 & 1102

The landlord filed an appeal of a hearing officer's decision, as did one tenant. The landlord sought an operating and maintenance increase based on the purchase of the building; an additional 7% was allowed by the hearing officer. Four tenants were successful in delaying this increase because of repair problems, primarily inadequate heat. On appeal the landlord argued that heat was provided according to City code requirements and repair problems were remedied in a timely manner. The appealing tenant asserted that the owner had taken out a new loan but not spent the funds on repairs or maintenance.

MSC: To uphold the hearing officer and deny both appeals,  
with a technical correction made in the decision.  
(Morales/Alviar: 4-0)

B. 444 Larkin #10 I002-16A

The landlord appealed the ruling of the hearing officer which disallowed a rent increase from \$265.00 to \$475.00. The apartment has been rented by agreement for over 10 years by 7 out-of-area couples,



who rotate use of the unit on weekends when they come into town for entertainment. The landlord maintained at the hearing and on appeal that the purpose of the Rent Ordinance is to protect tenants in their homes, not occasional residents who use the apartment for social reasons. He believes that full-time tenants are harmed by this arrangement, as their rents must be increased to make up for the low rents paid by the occasional residents.

MSC: To accept the appeal and hear the case at the Board level. (Alviar/Waller: 4-0)

C. 60 Parkridge #2 I002-18A

A landlord's appeal was received protesting the hearing officer's disallowance of a "banking" increase noticed with capital improvement increases for one tenant, discovered during the hearing on the owner's capital improvement petition. The hearing officer found evidence of prior improper increases; but since insufficient evidence was presented, he did not rule on these matters. On appeal the owner protested the ruling on this issue without a tenant petition on file.

MSC: To uphold the hearing officer and deny the appeal. (Morales/Alviar: 4-0)

D. 821-825A Vallejo I002-20A

This case involved tenant petitions for rent overcharges. In the decision, improper rent increases originally given by the previous owner were declared null and void--with subsequent increases accordingly adjusted--and allowable banking explained. On appeal the landlord maintained that the rent overages were agreed-on increases to allow for capital improvement increases without going through the Rent Board procedure.

MSF: To uphold the hearing officer and deny the appeal. (Morales/Waller: 2-2; Commissioners Alviar and Carrico dissenting)

MSF: To hear the case at the Board level. (Alviar/Carrico: 2-2; Commissioners Morales and Waller dissenting)

The case will be continued to the Meeting of March 15, 1988.

E. 2500 Chestnut #2, 12 & 15 I002-08R through I002-10R

Three tenants appealed the hearing officer's decision granting operating and maintenance and capital improvement increases. On appeal they protested that the amount allowed by the hearing officer--even after some items were disallowed--was more than petitioned for by the owner. They further disagreed with the allowance of management fees for the landlord's brother, who acted as unlicensed construction coordinator and failed to submit time sheet logs. In response to the appeal, the landlord's attorney stated that the increases would be 1385A



rolled back to the amount originally petitioned for; and explained that the management coordination costs followed the estimator's suggestion.

MSC: To remand the case to another hearing officer for a new hearing. (Morales/Alviar: 4-0)

F. 495-27th Avenue

I002-07R

The tenant appealed the determination of the hearing officer, ruling on a tenant petition for decreases in service and failure to repair. The landlord replaced the troublesome steam heat boiler system with individual electric baseboard heaters. The parties agreed to a \$23.00 per month rent reduction to compensate for the tenants now paying their own heating bill. On appeal the tenant stated the reduction was insufficient as her bills were approximately \$60.00 per month.

MSC: To uphold the hearing officer and deny the appeal;  
Staff will instruct the tenant in obtaining the correct baseline utilities rate. (Alviar/Morales: 4-0)

G. 1025 Treat

I002-22A

The landlord appealed the determination of the hearing officer in which a \$200 rent increase was disallowed. The landlord argued that the original terms of the tenancy involved reservation of one bedroom and a study by the landlord for use when she was in town. After deciding to give up this use, the landlord allegedly negotiated a \$200 increase in exchange for turning full use of the apartment over to the tenant. On appeal the owner insists a new tenancy was negotiated--not a rent increase--and that the tenant should not get greater use of the unit without paying more, the cost of which is covered by the rent from a new roommate.

MSC: To hear the case at the Board level.  
(Alviar/Morales: 4-0)

V. Appeal Hearing

830 Hayes

I002-04A

The landlord had appealed the hearing officer's decision which disallowed operating and maintenance increases based predominantly on a supplemental tax assessment, holding that the owner had received a 7% increase the previous year for debt service and taxes--based on four months of current ownership--after purchase by the present owner. On appeal the landlord had argued that the expenses were actual and paid when incurred, not manipulated. Several tenants noted that they continued to have hardship problems, as they had the previous year. The Commissioners voted to hear the case, with the focus on the issue of increased taxes.

The property in question was purchased in June of 1986. The first operating and maintenance petition covered October 1, 1985-September 30, 1986; the second petition--including the November 1986 supplemental tax charge--covered October 1, 1986 through September 30, 1987. At the 1385A







hearing the tenants argued that the supplemental tax arose out of the original purchase and was an anticipated cost of that transaction, not a separate, distinct and unexpected expense incurred at a later date. It was further pointed out that the three tenants with financial difficulties were already paying from 40% to 60% of their income for rent. After discussing the case, the Commissioners voted as follows:

MSC: To uphold the hearing officer's decision and deny a second operating and maintenance increase.  
(Morales/Alviar: 4-0)

#### VI. Communications

The Commissioners were given the following documents:

a. Communications from parties for the considerations at 444 Larkin, 821-825 Vallejo, and 536 Leavenworth;

b. Board decisions for 3309-21st Street #2 and 1580 Beach Street, which were approved and signed.

#### VII. Consideration of Allegations of Wrongful Eviction

##### A. Requests for Reconsideration and Staff Report

1. 156 Missouri #2

I002-21A & I003-11E

The landlords and tenants reside in adjacent apartments. In September 1987 a legally defective, inflammatory note to move was given by the landlord. A unit became vacant in late October, and a termination notice for occupancy by the owners' son was given the subject tenants in mid-November 1987. The owners alleged their son had to sleep in a van since the tenants hadn't vacated, and that the vacant unit would be immediately occupied by their parents. In later testimony he admitted his son had actually resided in the empty apartment, and that his parents had moved into the vacant unit in December.

RECOMMENDATION: The hearing officer found contradictory testimony from the owners and a long history of hostility, including a clear intent to evict before the issue was raised of the son's residence in the building. It is recommended that the Reconsideration Request be denied and a cautionary letter be sent the owners, with the case monitored.

2. 191-5th Avenue #3

I002-23A & I002-67E

The tenancies had changed several times, always among relatives of an extended family. Several times termination notices were given for too many occupants or unapproved subtenants, with either an increased rent paid or the matter dropped. Although the rent increase was approved, the hearing officer found the subject eviction attempt lacking in good faith; both sides had been lax in dealing with the other and the owner had knowingly tolerated the presence of unapproved relatives, accepted rent from them, and taken no steps to enforce rental agreement

1385A



provisions until the subject tenant testified in a tenant petition against the landlord.

RECOMMENDATION: There is evidence to suggest a retaliatory motive in this case. The Reconsideration Request should be denied and the landlord written a cautionary letter suggesting the owner be more diligent in exercising her rights once a problem has been noted.

MSC: To deny the reconsideration requests and accept Staff recommendations. (Alviar/Waller: 3-0)

#### VIII. Calendar Items

##### March 15, 1988

Executive Session: Lee v. SFRRSAB

4 appeal considerations

##### Appeal Hearings:

6:00 --1567 Jackson #4 I002-05R (accepted 3/1/88)  
7:00 --1848 Golden Gate Ave. #4 I002-03R (accepted 2/23/88)  
Old Business  
--821-825A Vallejo I002-20A (cont. from 3/8/88)  
--878 Douglass--Wrongful Eviction/Staff report  
--Discussion of budget issues  
Reports of Alleged Wrongful Eviction  
--Prior case updates  
--Case Summary & Recommendation: 2156 Sloat Blvd. I003-58E

##### March 22, 1988

2 appeal considerations

##### Appeal Hearing:

6:00 --444 Larkin St. #10 I002-16A (accepted 3/8/88)

##### March 29, 1988

2 appeal considerations

##### Appeal Hearings:

6:00 --1275 Greenwich St. I002-01A (accepted 2/2/88)  
6:30 --1025 Treat Ave. I002-22A (accepted 3/8/88)

#### IX. Adjournment

Vice President Morales adjourned the meeting at 7:29 p.m.





SF  
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#1  
3/15/88

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 15, 1988

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MAR 14 1988

State Building, 350 McAllister St. #1158

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AGENDA

\*\*\*\*\*

I. Call to Order

II. Roll Call

III. Executive Session [Govt. Code Section 54956.9(a)]  
Lee v. SFRRSAB (6/30/87 Board decision re 197 Parker Ave.)

IV. Approval of the Minutes

V. Consideration of Appeals

|                          |                              |
|--------------------------|------------------------------|
| A. 821-825 Vallejo St.   | I002-20A (cont. from 3/8/88) |
| B. 335 Victoria St.      | I002-19A                     |
| C. 1790 Jackson St. #504 | I002-11R                     |
| D. 590 - 36th Ave.       | I002-24A                     |
| E. 144 Parnassus St. #6  | I002-26A                     |

VI. Communications

VII. Director's Report

VIII. Remarks from the Public

IX. Consideration of Allegations of Wrongful Evictions  
Report from Staff

|  |          |
|--|----------|
| A. 878 Douglass                        | I002-77E |
| B. 2156 Sloat Blvd.                    | I003-58E |
| C. 860 Sutter St. #405                 | H001-70E |
| D. Other cases only for status report. |          |

X. Old Business  
Discussion of Budget Issues

XI. New Business

XII. Appeal Hearings

|                                  |                          |
|----------------------------------|--------------------------|
| 6:00 A. 1567 Jackson St. #4      | I002-05R (accepted 3/1)  |
| 7:00 B. 1845 Golden Gate Ave. #4 | I002-03R (accepted 2/23) |

XIII. Calendar Items

XIV. Adjournment

1386A





MAR 18 1988

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 15,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Vice-President Morales called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Astle; Gartzman; Morales; Waller.  
Commissioners not Present: Alviar; How; Marshall; Payne.  
Staff Present: O'Hearn.

Commissioner Carrico appeared on the record at 5:42 p.m. and left at 6:12 p.m.

III. Executive Session

Pursuant to Government Code Section 54956.9(a), the Board went into executive session at 5:41 p.m. to discuss pending litigation - Lee v. S.F. Rent Board. The case concerns 197 Parker Ave. heard and decided by the Board on June 30, 1987. The Board returned to its regular session at 6:05 p.m after approving the following motion:

MSC: To authorize the City Attorney to stipulate to the Board's re-hearing the case since, based on the advice of counsel, the facts as before the Board on June 30, 1987 do not constitute a waiver of the Rent Ordinance protection against the rent increase challenged in this litigation. (Astle/Waller: 4-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of March 8, 1988 as written.  
(Astle/Waller: 4-0)

V. Appeal Hearings

A. 1567 Jackson St. #4 I002-05R

The hearing commenced at 6:09 p.m. with both parties present and represented by their attorneys. The Board accepted the tenants' appeal on March 1, 1988. The tenants claimed that the hearing officer erred in calculating rent overcharges based on illegal increases which are null and void in their entirety. At the outset of the appeal hearing, the parties stipulated to the rent paid from August 1982 to the present. The landlord gave annual increases as follows: 7.02%; 8.2%; 4.55%; 5.8%; 6.85%; and 6.4%. After the hearing concluded the Board discussed the case and approved the following motion:





MSC: To find that (1) the overcharge collected in 1982 is de minimus, resulting in a valid increase with a corrected base rent of \$304.95 effective July 1, 1982; (2) all increases subsequently imposed are null and void in their entirety, resulting in tenant overpayments of \$3,402.80 through March 1988; and (3) the landlord is prospectively entitled to bank increases accruing from 1983. (Astle/Waller: 3-0)

B. 1845 Golden Gate Ave. #4 I002-03R

This appeal hearing has been postponed and rescheduled for the Board meeting of April 5, 1988.

VI. Consideration of Appeals

A. 821-825 Vallejo St. I002-20A

This matter was continued from the previous meeting due to a lack of majority vote for action on the landlord's appeal.

MSC: To deny the appeal. (Astle/Waller: 3-0)

B. 335 Victoria St. I002-19A

The landlord appeals the hearing officer's decision granting the tenant's petition on grounds of both illegal increases charged each year since 1983 and the landlord's failure to repair and maintain. The landlord disputes the original rent level and the increases imposed in 1984 and 1985.

MSC: To deny the appeal. (Waller/Astle: 3-0)

C. 1790 Jackson St. #504 I002-11R

The tenant submitted an appeal 118 days after the decision was mailed, stating that he could not attend the hearing on September 16, 1987 due to his father's death. He does not, however, state any reasons for his failure to file an appeal by the deadline on November 5, 1987.

MSC: To deny the appeal. (Astle/Waller: 3-0)

D. 590 - 36th Ave. I002-24A

The landlord appeals the hearing officer's decision granting the tenant's petition for a 50% rent decrease for 5 weeks in June/July 1986 to correspond with the landlord's refusal to allow the tenant to have a replacement roommate that month. The hearing officer also granted a 5% decrease from March 1985 through November 1987 to correspond with the loss of use of the second bedroom due to ceiling leaks. The landlord argues that the tenant's complaints were not timely raised and do not constitute substantial decreases in housing services.



MSC: To accept the appeal only on the issues concerning the refusal to consent to the roommate, and remand the case to another hearing officer with instructions to consider that the facts as stated do not indicate extraordinary circumstances warranting an exception to the rule prohibiting Board consideration of decrease issues which arose more than one year preceding the filing of the petition. (Astle/Waller: 3-0)

E. 144 Parnassuss St. #6 I002-26A

The landlord appeals the hearing officer's decision granting the tenant's petition for a rent reduction of 25% when there was no heat, 12-1/2% for partial heat, and 12-1/2% for lack of hot water in the kitchen faucets. The landlord contends that the decrease due to loss of heat should not apply during mild weather and that he has made attempts to restore the hot water.

MSC: To deny the appeal. (Waller/Astle: 3-0)

#### VII. Communications

The Commissioners received the following communications:

- A. The tenants' appeal brief for the above hearing concerning 1567 Jackson St. #4 and a memo from the Eviction Unit Supervisor for the above appeal consideration concerning 590 - 36th Ave.
- B. A letter from the Keystone Renters' Association Project informing the Board of developments concerning 1369 Hyde St.
- C. The Board's written Determination on Eviction concerning 1321 - 4th Ave. heard before the Board on February 9, 1988, approved and signed.

#### VIII. Consideration of Allegations of Wrongful Evictions

Reports from Staff

A. 878 Douglass I002-77E

The Board deferred its consideration of this matter until after considering the other eviction cases below. This case originally was discussed by the Board on March 1, 1988. Given the landlord's attorney's erroneous belief that the property consisted of two connected units and the testimony of the grantee, it appears that the deed transfer was suggested as a way of avoiding the protections of the Ordinance. Staff therefore recommended that a hearing be held by the Board to investigate this possibility and the attorney's involvement therein. Staff also recommended that the case should be monitored and possibly referred to the City Attorney or District Attorney if the eviction is pursued, since clearly no just cause exists.



MSC: To refer this matter to the District Attorney with specific instructions to look at the attorney's conduct in this case. (Waller/Morales: 3-0)

|                        |          |
|------------------------|----------|
| B. 2156 Sloat Blvd.    | I003-58E |
| C. 860 Sutter St. #405 | H001-70E |

For the Sloat Blvd. case, staff recommends a cautionary letter to the landlords and monitoring of this matter since although the landlords may have a basis for objecting to the behavior of the tenant's friend, their effort to get him to pay rent in exchange for gaining tenant status belies this concern. Further, they attempted--even after expiration of the notice period of the eviction--to allow the tenant to remain if she would pay more rent and assume all responsibility for running the household.

For the Sutter St. case, staff recommends a letter to the corporate landlord and its attorney requesting a written reply and informing them that the matter will be set for hearing before the Board and referred to the District Attorney if they proceed with the eviction attempt and/or demand market rent. This case involves a tenant who was relocated from one residential hotel to another when the owner converted his former unit to tourist use. Although he was given a comparable unit at the same rent as his previous unit, the landlord improperly attempted to raise his rent to market rate at the end of one year. The new owners are trying to again impose market rent, as well as improper food service charges, and they have served a three-day notice for over \$2,000. The landlord's attorney has not responded to a Board letter sent last month.

MSC: To adopt staff recommendations on both of the above cases. (Astle/Waller: 3-0)

#### D. Other Cases

Staff reported on the status of the following eviction cases:

- |  |                     |
|--|---------------------|
| 1. 1518 Silver   | I002-11E            |
| 2. 1155 Hayes  | I001-04B & I002-53E |
| 3. Octavia, Leavenworth, Bay & 9th Ave. - Duering properties |                     |

#### IX. Old Business

The Board postponed its scheduled discussion of budget issues until the next Board meeting. The Commissioners requested a chart on the petitions filed with the Board.

#### X. New Business

- A. Commissioner Gartzman inquired about the Board's publication required on March 1st by Ordinance Section 37.3(a)(1) of the increase in the Consumer Price Index (CPI) for the preceding 12 months, as made available by the U.S. Department of Labor. Based on that CPI increase, landlords may impose 4% annual increases from March 1, 1988 until March 1, 1989.



- B. Commissioner Gartzman also inquired about the Board's publication required on March 1st by Ordinance Section 37.6(j) of statistics on the number of notices to vacate filed with the Rent Board during the preceding 12 months.

XI. Calendar Items

March 22, 1988

2 appeal considerations

Appeal Hearing:

6:00 --444 Larkin St. #10 I002-16A (accepted 3/8/88)

Old Business:

Discussion of Budget issues and petitions filed

March 29, 1988

4 appeal considerations

Appeal Hearings:

6:00 --1275 Greenwich St. I002-01A (accepted 2/2/88)

6:30 --1025 Treat Ave. I002-22A (accepted 3/8/88)

April 5, 1988

3 appeal considerations

Appeal Hearing:

6:00 1845 Golden Gate Ave. #4 I002-03R (accepted 2/23/88)

IX. Adjournment

Vice President Morales adjourned the meeting at 7:35 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

March 22, 1988

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- A. 843-863 Scott St. I002-25A
- B. 784 Dolores St. #A I002-27A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- Discussion of Budget Issues and Petitions filed with the Board
- X. New Business
- XI. Appeal Hearing
- 6:00 444 Larkin St. #10 I002-16A (accepted 3/8/88)
- XII. Calendar Items
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 22,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

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President Carrico called the meeting to order at 5:35 p.m. MAR 29 1988

II. Roll CallSAN FRANCISCO  
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Commissioners Present: Alviar; Astle; Carrico; Gartzman.  
Commissioners not Present: How; Morales; Waller.  
Staff Present: Wolf.

Commissioner Marshall appeared on the record at 5:41 p.m. Commissioner  
Payne appeared at 5:42 p.m. Commissioner Astle went off the record at  
5:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 15, 1988 as written.  
(Alviar/Gartzman: 3-0)

IV. Consideration of Appeals

A. 843-863 Scott Street I002-25A

The landlord appeals the hearing officer's decision granting  
certification of certain capital improvements, but denying others due  
to a lack of documentation. The landlord alleges that the hearing  
officer was biased and that he has submitted all of the necessary  
supporting documents with his appeal. The hearing officer had convened  
a second hearing in this matter in order to allow the landlord a chance  
to better organize his substantiation.

MSC: To deny the appeal without prejudice to the landlord's  
filing of another petition. (Gartzman/Alviar: 4-1;  
Payne dissenting)

B. 784 Dolores Street #A I002-27A

The landlord appeals the hearing officer's decision on remand  
clarifying the amount of the capital improvement pass-through to one  
unit only. The landlord alleges that the costs were not allocated  
properly to the units benefitted, that technical errors were made in  
the calculations, and that improvements disallowed by a previous  
decision should be allowed at this time.

MSC: To remand this case to a new hearing officer for a  
hearing on issues 2-5 in the landlord's appeal.  
(Gartzman/Marshall: 5-0)



V. Communications

The Commissioners received the following communications:

- A. A Memorandum from the hearing officer regarding the appeal case at 841 Scott Street (I001-84C).
- B. The 1987 Statement of Economic Interests form.
- C. A Memorandum from the Deputy City Attorney regarding the landlord's abandonment of the remaining judicial appeal concerning 1001 California Street.
- D. A postponement request from a tenant regarding the appeal hearing for 1025 Treat Avenue (I002-22A), originally scheduled for March 29, 1988 at 6:30 p.m.

MSC: To grant the postponement request.  
(Marshall/Gartzman: 5-0)

VI. Old Business

The Commissioners discussed a possible meeting with the District Attorney to discuss eviction cases referred by the Rent Board.

VII. Appeal Hearing

444 Larkin Street #10 I002-16A

As the notice of appeal hearing was not sent to the tenant's correct address, this case was rescheduled for the April 5, 1988 Board meeting.

VIII. Calendar Items

March 29, 1988

3 appeal considerations

Appeal hearing:

6:00 1275 Greenwich I002-01A (accepted 2/2/88)

Old Business:

Discussion of budget issues and petitions filed.

Meeting with District Attorney.

April 5, 1988

5 appeal considerations

Appeal hearings:

6:00 1845 Golden Gate Ave. #4 I002-03R (accepted 2/23/88)

6:30 444 Larkin Street #10 I002-16A (accepted 3/8/88)

April 12, 1988

Special Election: No Board Meeting

IX Adjournment

President Carrico adjourned the meeting at 6:25 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

March 29, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

MAR 29 1988

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- A. 531 Noriega St. I002-29A
- B. 1626 Northpoint St. #201 I002-28A
- C. 1857 Greenwich St. #5 I002-30A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- A. Discussion of Budget Issues and Petitions filed
- B. Meeting with District Attorney
- X. New Business
- XI. Appeal Hearing
- 6:00 1275 Greenwich St. I002-01A (accepted 2/2/88)
- XII. Calendar Items
- XIII. Adjournment

1395A







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 29,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Morales.  
Commissioners not Present: Alviar; Gartzman; How; Marshall;  
Payne.  
Staff Present: Hernandez; O'Hearn.

Commissioner Waller appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 22, 1988 as written.  
(Astle/Morales: 3-0)

MSC: To correct the Minutes of March 1, 1988, page 2 to  
refer to the tenant's appeal for 1567 Jackson St. #4,  
instead of the landlord's appeal, and to correct the  
Minutes of March 15, 1988, page 2 also concerning 1567  
Jackson St. #4 to reflect the base rent date of August  
and overpayments of \$3,403.40. (Astle/Morales: 3-0)

IV. Consideration of Appeals

A. 531 Noriega Ave. I002-29A

The landlord appeals the hearing officer's determination that, although the landlord gave notice of an increase properly taking effect on August 1, 1987, the tenant is owed \$104 pursuant to a prior Rent Board decision (H009-11T) granting a rent offset for rent overcharges and the filing fee.

MSC: To deny this appeal and confirm that the anniversary date is August 1st. (Astle/Morales: 3-0)

B. 1626 Northpoint St. #201 I002-28A

The landlord appeals the hearing officer's decision granting a 10% rent decrease to correspond with the loss of adequate heat and hot water. The landlord states that the heat is in compliance with the Code and any remaining problems existed before the tenant moved in.



MSF: To deny the appeal and correct the clerical error on page 3 to reflect the sum of \$840. (Morales/Astle: 2-1; Carrico dissenting.)

Since the motion failed for lack of sufficient votes, this matter was considered again after Commissioner Waller appeared.

MSC: To deny the appeal and correct the clerical error on page 3 to reflect the sum of \$840. (Morales/Astle: 3-1; Carrico dissenting.)

C. 1857 Greenwich St. #5 I002-30A

The landlord appeals the hearing officer's determination of rent overcharges due to illegal increases. The landlord indicates on appeal that the overcharges are the result of PG&E surcharges.

MSF: To deny the appeal. (Morales/Astle: 2-1; Carrico dissenting.)

Since this motion also failed for lack of votes, the appeal was considered again after Commissioner Waller appeared.

MSC: To deny the appeal. (Morales/Astle: 3-1; Carrico dissenting.)

#### V. Communications

The Commissioners received the following communications:

- A. A memo and attachments from the Mayor to the Executive Director regarding Proposed Legislation concerning artist live/work zoning and exemption from the Rent Ordinance, continued to the next meeting for discussion.
- B. A letter and attachments to the Consumer Protection Unit of the District Attorney's office from Senator Kopp's office concerning Senate Bill 2338 to amend the security deposit law, also continued to the next meeting for discussion.
- C. The annual report to the Mayor and Board of Supervisors from the Executive Director regarding eviction notices filed with the Rent Board.
- D. Written Decisions on Appeal for 1567 Jackson St. #4 heard on March 15, 1988, approved and signed, and for 830 Hayes St. heard on March 8, 1988, referred to staff for revisions.
- E. The tenants' response to their landlord's appeal for 601 O'Farrell scheduled for consideration on April 5, 1988.



VI. Appeal Hearing

1275 Greenwich St.

I002-01A

The hearing on the landlord's appeal commenced at 6:20 p.m. Both the landlord and the tenants appeared. The tenants were represented by their attorney, Catherine Steane. The Board accepted the appeal on February 1, 1988 in order to consider the affect of a prior capital improvement passthrough conditionally authorized by the Board in August 1985 on the current proposed passthrough for windows replaced in compliance with the prior decision.

After hearing testimony and argument from the parties, the Commissioners closed the hearing at 7:15 p.m. The Commissioners discussed the issues of prior non-compliance with the previous decision and of possible deferred maintenance.

MSW: To affirm the Decision of the Hearing Officer.  
(Morales/Astle)

MSC: To authorize the proposed capital improvements of \$17.61 for unit #204, \$35.52 for #202, \$53.20 for #402 and \$52.42 for #502, but only to the extent such amounts exceed the prior \$39.00 passthrough conditionally authorized in August 1985.  
(Astle/Morales: 4-0)

VII. Director's Report

The Executive Director reported on the 1988-89 budget which is still in flux for the Rent Board, but for which more information will be available at a later date. He also discussed the petitions filed and noted the cases, particularly for landlord petitions, involve extensive hearings.

VIII. Old Business

- A. The Board discussed budget issues and petitions filed during the Director's report.
- B. The Board was informed of legal problems with a full Board meeting with the District Attorney. Following discussion, the Commissioners approved the following motion:

MSC: To schedule an appointment with the District Attorney to meet with the President, Vice-President, and Executive Director.  
(Astle/Waller: 4-0)



IX. Calendar Items

April 5, 1988

5 appeal considerations

Appeal hearings:

|      |                          |                             |
|------|--------------------------|-----------------------------|
| 6:00 | 1845 Golden Gate Ave. #4 | I002-03R (accepted 2/23/88) |
| 7:00 | 444 Larkin Street #10    | I002-16A (accepted 3/8/88)  |

April 12, 1988 - Special Election: No Board Meeting.

April 19, 1988

5 appeal considerations (including 20 & 22 Upper Terrace)

Appeal hearing:

|      |                 |                            |
|------|-----------------|----------------------------|
| 6:00 | 1025 Treat Ave. | I002-22A (accepted 3/8/88) |
|------|-----------------|----------------------------|

X. Adjournment

President Carrico adjourned the meeting at 8:10 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

April 5, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

DOCUMENTS DEPT.

NOV 20 2000

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- |    |   |                     |
|----|---|---------------------|
| A. | 601 O'Farrell St.                                 | I002-31A            |
| B. | 1350 Washington St. #24                           | I002-12R            |
| C. | 920 Leavenworth St.                               | I002-32A            |
| D. | 20 & 22 Upper Terrace                             | I002-13R & I002-14R |
|    | (cont. to 4/19/88 and consolidated with I002-35A) |                     |

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

- |    |  |
|----|--|
| A. | Discussion of proposed legislation on artist live/work space |
| B. | Discussion of Senate Bill 2338                               |

X. New Business

XI. Appeal Hearings

- |      |    |                          |                             |
|------|----|--------------------------|-----------------------------|
| 6:00 | A. | 1845 Golden Gate Ave. #4 | I002-03R (accepted 2/23/88) |
| 7:00 | B. | 444 Larkin St. #10       | I002-16A (accepted 3/8/88)  |

XII. Calendar Items

XIII. Adjournment

1404A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 5, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Carrico; Gartzman; Payne.  
Commissioners not Present: Alviar; How; Morales; Waller.  
Staff Present: Hernandez; Wicks.

Commissioners Astle and Marshall appeared on the record at 5:35 p.m.  
Commissioner Astle went off the record at 6:39 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 29, 1988, as written.  
(Gartzman/Payne: 3-0)

IV. Consideration of Appeals

A. 601 O'Farrell St. I002-31A

The landlord appealed the hearing officer's determination allowing some capital improvement increases but denying allocation of parapet bracing costs, holding that this work was in the nature of repairs. On appeal the landlord maintained that the \$28,000 parapet bracing item should be considered a capital improvement.

MSC: To remand the case to the same hearing officer with instructions that parapet bracing is a capital improvement. (Payne/Marshall: 4-1; Gartzman dissenting)

B. 1350 Washington St. #24 I002-12R

A tenant appealed the ruling of the hearing officer, questioning the allowance of certain capital improvement costs and operating and maintenance increase items, including mortgage payments made in escrow.

MSC: To remand the case to the hearing officer on the operating and maintenance issues raised on appeal.  
(Marshall/Astle: 5-0)

C. 920 Leavenworth I002-32A

The hearing officer's decision disallowing an operating and maintenance increase was appealed by the landlord. The increase was not approved



because the landlord had filed the petition nearly eight months after the end of the adjustment period used. The hearing officer reasoned that Rules and Regulations Section 6.10(a) had therefore not been complied with. The landlord argued on appeal that the law did not require that the period chosen end immediately before filing and that exaggerated results did not result in this case.

MSC: To remand the case with instructions to determine whether the time periods chosen by the landlord give exaggerated results. (Marshall/Payne: 5-0)

V. Old Business

A. The Board discussed at length the proposed changes to the Rent Ordinance and Planning Code, providing for exemption of certain artist live-work units. Commissioner Marshall provided a draft letter to respond to the Mayor's request for Board comments on the legislation.

MSF: To close the discussion and call the question.  
(Astle/Gartzman: 3-2; Carrico and Payne dissenting)

Discussion continued on the subject since the above motion failed.

MSC: To accept Commissioner Marshall's letter with modifications, opposing the legislation in its present form. (Astle/Gartzman: 4-0)

B. The Commissioners discussed setting a meeting with the District Attorney to discuss wrongful eviction prosecution.

C. Rick Judd from the City Attorney's office reported to the Board, as requested, on the Tappe v. Lieberman case from the San Francisco Appellate Department of the Superior Court.

D. The Board tabled its review of proposed Senate Bill 2338.

VI. Appeal Hearing

444 Larkin St. #10

I002-16A (accepted 3/8/88)

The landlord had appealed the ruling of the hearing officer which disallowed a rent increase from \$265.00 to \$475.00. The apartment has been rented for over 10 years by 7 out-of-area couples, who rotate use of the unit on weekends when they come to San Francisco for entertainment or meetings. The landlord maintained on appeal and at the hearing that the purpose of the rent Ordinance is to protect tenants in their homes, not occasional residents who use the apartment for social purposes. He further argued that these tenants removed a housing unit from the pool for prospective full-time tenants.



The tenants argued that the landlord is not denied any of his rights since low rents were reflected in the purchase price; and that the landlord's real concern was the low rent, since he had welcomed the tenants to remain if they paid the higher rent.

MSF: To uphold the hearing officer and rule that the unit is covered by the Ordinance. (Marshall/Gartzman: 2-2; Carrico and Payne dissenting)

It was the consensus of the Commissioners to continue the matter to let the neutral commissioner review the evidence and cast a vote.

#### VII. Communications

The Board received the following communications:

- A. The Board appeal decision on 830 Hayes Street, which was approved and signed.
- B. The Rent Board stastics for March 1988.
- C. Notice of Appeal Withdrawl for the hearing at 1845 Golden Gate Avenue #4, originally scheduled for hearing 4/5/88.

#### VIII. Director's Report

- A. Executive Director Ricardo Hernandez reported on his recent talk to Keynote Properties. Several similar talks are scheduled for realtors and management groups in the near future.
- B. Mr. Hernandez mentioned that Mayor Agnos will not require that Management by Objectives be complied with in the future.

#### IX. Calendar Items

April 12, 1988--Special Election: NO BOARD MEETING

April 19, 1988

5 appeal considerations

Appeal Hearing

6:00-- 1025 Treat Ave. I002-22A (accepted 3/8/88)

Old Business

444 Larkin #10 (continued from 4/5/88)

April 26, 1988

4 appeal considerations

#### X. Adjournment

President Carrico adjourned the meeting at 8:27 p.m.  
1405A







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 19, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Morales; Payne.  
Commissioners not Present: Alviar; Gartzman; How; Waller.  
Staff Present: Hernandez; O'Hearn.

Commissioner Marshall appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 5, 1988 as written.  
(Astle/Morales: 4-0)

IV. Consideration of Appeals

A. 3 Liberty St. I002-33A

The landlord appeals the hearing officer's decision granting the tenant's petition for monthly rent decreases of \$25 for unsafe floors, \$25 for lack of pest control, and \$25 for an incomplete paint job. The landlord primarily contends that the hearing officer improperly failed to distinguish between remedies for a landlord's failure to maintain the premises and for a substantial decrease in housing services. The hearing officer additionally concluded that the landlord may not increase the base rent until he restores the housing services which justified the decreases.

MSC: To excuse Commissioner Payne from consideration of this appeal. (Astle/Morales: 4-0)

MSC: To deny the appeal.  
(Morales/Astle: 3-1; Carrico dissenting.)

B. 4130 Army St. #24 I002-15R

The hearing officer denied the tenants' petition based on their failure to prove extraordinary circumstances or long-term verifiable notice sufficient to justify consideration of issues which arose prior to one year preceding the filing of their petition. Their decrease petition is based on their loss of use the swimming pool, which has not been usable since the tenants commenced occupancy on April 1, 1985 even though it was promised to be repaired by that summer.

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SAN FRANCISCO PUBLIC LIBRARY



MSF: To deny the appeal. (Payne/Astle: 2-3; Marshall, Morales and Carrico dissenting.)

After the above motion failed, the following motion carried:

MSC: To remand the case to the hearing officer with instructions to construe the rule such that extraordinary circumstances or long-term notice need be proven only to grant a corresponding rent decrease for a period of time preceding one year prior to the filing of the petition.  
(Marshall/Morales: 4-1; Payne dissenting.)

C. 621 Taylor St. #53 & #55 I002-16R & I002-17R

Two tenants appeal the hearing officer's decision granting capital improvement increases for 12 of the 35 units at the building. One tenant complains about the lack of certain repairs and the other tenant contends that the decision is biased in favor of the landlord. The landlord requests a technical correction to include passthrough costs from both pages of the petition schedule.

MSC: To deny both appeals without prejudice to the filing of tenant petitions based on failure to maintain when the landlord gives notice of the annual increase, and to correct the total passthrough amount as requested.  
(Payne/Astle: 5-0)

D. 622 Huron Ave. I003-67E

Since the staff had not sent the Commissioners the tenants' response to the appeal and the landlord submitted a supplemental appeal brief the day before the meeting, the Commissioners decided to continue the matter until the next meeting so that they could review both lengthy responses.

MSC: To continue the matter until the next meeting.  
(Astle/Payne: 5-0)

E. 20 & 22 Upper Terrace I002-13R, I002-14R & I002-35A

After receiving notification that the tenants timely appealed the hearing officer's decision granting the landlord's capital improvement petition, the landlord submitted an appeal 22 days after the decision was mailed. The tenants question the hearing officer's disregard of the estimator's recommendation to reduce exterior painting costs. The landlord challenges the hearing officer's calculation of rent overcharges which are the result of improper banking in 1985.

MSC: To remand the case to another hearing officer with instructions to consider the issues raised by both the landlord's and the tenants' appeals.  
(Marshall/Morales: 5-0)



V. Appeal Hearing

1025 Treat Ave.

I002-22A

The appeal hearing commenced at approximately 6:20 p.m. with both parties appearing with their witnesses. The Board accepted the landlord's appeal on March 8, 1988. The landlord disputes the hearing officer's disallowance of a \$200 rent increase negotiated in exchange for turning full use of the apartment over to the tenant. The landlord argued that the original terms of the tenancy involved reservation of one bedroom and a study by the landlord for use when she was in town.

The parties testified about their respective understandings of the arrangement concerning the landlord's use of one bedroom and a loft room. Along with the additional rent for the rooms, the tenant was required to permit a full-time roommate chosen by either the landlord or the tenant to replace the landlord's infrequent use of the other bedroom.

The parties also testified about the decrease in services claim based on a ceiling leak. The landlord has now sold the property and the new owner attempted to evict the tenant for withholding rent as permitted by the original decision. The hearing concluded at approximately 7:30 p.m. After discussing the case, the Board approved the following motion:

MSC: To vacate the hearing officer's decision with respect to the \$200 increase, and to grant a corresponding rent decrease of \$60/month for the ceiling leak (\$10) and the increased occupancy level (\$50).  
(Payne/Carrico: 5-0)

VI. Communications

The Commissioners received the following communications, in addition to appeal responses for 622 Huron Avenue:

- A. the Decision on Appeal for 1275 Greenwich St. heard on March 29, 1988, which was approved and signed; and
- B. the letter to Mayor Agnos from Rent Board President Carrico regarding proposed artists' live/work legislation.

VII. Director's Report

- A. The Executive Director reported on the following outreach efforts during the past week and upcoming: Herth Realty and Grubb & Ellis Realtors by the Executive Director; Keynotes Property by eviction staff member Pedro Ruiz, whose presence has been requested next month as well; and the Sheriff's Department Work Furlough Program by the deputy director.
- B. The Executive Director requested the Deputy Director to report on the Mayor's recent meeting with all city department heads.



- C. The Executive Director requested Vice-President Morales and President Carrico to report on the District Attorney's meeting with them and the Executive Director regarding the Rent Board's concerns about referrals for prosecution.

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

Since the Commissioners had not timely received the staff report on scheduled cases, they continued the matters until the next meeting. Staff postponed the case concerning 460 Lyon St. [I003-89E through I003-95E] until May 3rd to coincide with Board consideration of the landlord's request for reconsideration of the hearing officer's recommendation. The Board also requested that staff report on the status of eviction reports concerning 1400 Washington.

IX. Old Business

44 Larkin St. #10

I002-16A

Due to lack of a majority vote on this matter at the previous Board meeting, Board action was continued to this meeting in order to permit another commissioner to listen to the tape recording of the hearing and to review the other evidence. Commissioner Astle having done so, the following motion carried:

MSC: To affirm the Decision of the Hearing Officer.  
(Marshall/Morales: 3-2; Payne and Carrico dissenting.)

X. New Business

Commissioner Morales announced his resignation from the Rent Board since he has been appointed to the Planning Commission and will be sworn in on Thursday, April 21st.

XI. Calendar Items

April 26, 1988

5 appeal considerations (including 1 from 4/19/88)

4 eviction cases for staff report (3 from 4/19/88)

May 3, 1988

3 appeal considerations

1 eviction reconsideration request

XII. Adjournment

President Carrico adjourned the meeting at 8:17 p.m.









NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

April 26, 1988

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

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SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

- A. 622 Huron Ave.
- B. 1369 Hyde St. #20, 40 & 42
- C. 1840 Franklin St.
- D. 772 So. Van Ness Ave. #3
- E. 140 Mason St. #415

- I002-24A (cont. from 4/19/88)
- I002-18R through I002-20R
- I002-36A
- I002-37A
- I002-21R

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

- A. 276 Sanchez
- B. 622 Huron Ave.
- C. 1025 Treat St.
- D. 1400 Washington St.
- E. 1310 - 10th Ave.

- I003-86E (cont. from 4/19/88)
- I003-67E (cont. from 4/19/88)
- I002-22A (cont. from 4/19/88)
- H004-24E through H004-30E
- and H007-89E
- I003-10E

- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1415A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, <sup>April</sup> March 26,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DOCUMENTS DEPT.

APR 28 1988

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

|                            |                                  |
|----------------------------|----------------------------------|
| Commissioners Present:     | Astle; Carrico; Marshall; Payne. |
| Commissioners not Present: | Alviar; Gartzman; How; Waller.   |
| Staff Present:             | Hernandez; Wicks.                |

III. Approval of the Minutes

MSC: To approve the Minutes of April 19, 1988, with the  
following correction: p. 4, IX, Old Business:  
"444 Larkin St. #10." (Astle/Marshall: 4-0)

IV. Consideration of Appeals

A. 622 Huron

I002-24A (cont. from 4/19/88)

This case involves a family dispute. The landlord's parents resided with him until an argument occurred, at which time the parents went to live with other of their children in a nonconforming "inlaw" apartment in the bottom of a house owned by the landlord. Several rent increases have been given above the annual limits imposed by the Ordinance. The tenants prevailed on the voiding of two rent increases as well as rent reduction for inadequate heat, broken glass door, and inadequate wiring. On appeal the landlord protested the voiding of the increases, stating that they had allowed the tenants to initially pay much less than the agreed-on rent, because of financial difficulties, and that frequently the tenants had not paid for several months, which should be offset against the tenants' award.

MSC: To deny the appeal with technical corrections.  
(Marshall/Astle: 3-1; Commissioner Payne dissenting)

B. 1369 Hyde #20,40,42

I002-18R through I002-20R

Three tenants appealed the hearing officer's ruling on decrease in service petitions filed by 41 tenants in an 84-unit building. The tenants protested having the front door locked at all times, with no provision for management accepting deliveries or admitting guests, interruption in hot water and heat service, and reduction in availability of the resident manager. The petitions of all but one tenant were denied, in that the service interruption was either minor,



required by DPW, or not proven. On appeal the tenants protested the hearing officer's analysis of the front door access; they did not deny the City's requiring it be locked at all times but did believe they should receive an award for reduced access.

MSC: To uphold the hearing officer and deny the appeal.  
(Payne/Astle: 4-0)

C. 1840 Franklin St.

I002-36A

The hearing officer denied a landlord's petition for capital improvement passthrough because neither the landlord nor his agent appeared at the hearing, despite proper notice. On appeal the landlord's agent maintained that he and his client had agreed that the client need not appear at the hearing; however, the Rent Board sent notice only to the owner, not also to the representative, who had no indication a hearing would be held. They request a rescheduling of the case.

MSC: To excuse Commissioner Carrico from this consideration. (Marshall/Payne: 4-0)

MSC: To remand for a new hearing. (Astle/Marshall: 3-0)

D. 772 S. Van Ness Ave. #3

I002-37A

The subject tenant petitioned for improper rent increase, decrease in services, and failure to maintain and repair. The parties reached a conciliation in 1984 concerning future rent increases, but past improper increases and the correct base rent were not addressed. The hearing officer voided two of the improper increases and established a base rent for recalculation of later correct increases. For lack of notice to the landlord, the tenant's remaining petition was denied. On appeal the landlord insisted that the previous rent increases had been adjudicated in 1984 and that the increases prior to that time accommodated additional tenants and approval of previously unapproved subtenants.

MSC: To accept the case for a hearing at the Board level.  
(Astle/Marshall: 4-0)

E. 140 Mason #415

I002-21R

The tenant has resided in his one-room unit in a residential hotel for 12 years. He protested improper rent increases but was unable to furnish a complete rent history. He also established that he--and ten other units in the building--had no heating facility in his room. He testified to numerous oral requests for heat. He gave written notice on January 26, 1988 and received a radiator three days later. The hearing officer found the rent increase evidence insufficient to arrive at an award. A 25% rent decrease for lack of heat was given for the



year prior to filing his petition. On appeal the tenant maintained that the hearing reduction should cover the entire 12 years of his tenancy; and that the hearing officer had enough documentation to rule on the rent increase issue.

MSC: To remand to a new hearing officer on the issue of the improper rent increases. (Astle/Marshall: 4-0)

V. Communications

The following communications were received by the Commissioners:

- A. The appeal hearing decisions for 444 Larkin #10 (I002-16A) and 1025 Treat (I002-22A), which were signed.
- B. Executive Director Hernandez's memo to the Mayor requesting vacation approval later in the summer.

VI. Director's Report

- A. Executive Director Ricardo Hernandez will attend the Residential Demolition Task Force meeting on 4/27.
- B. The following Staff members will make presentations to the public in the coming weeks:
  - Mr. Hernandez (and Commissioner Carrico) to the rental trade show on 4/30;
  - Alicia Wicks to Self-Help for the Elderly on 4/27;
  - Mr. Hernandez to Northern California Nonprofit Housing on 5/1;
  - Pedro Ruiz to Keynote Properties on 5/4.

VII. Consideration of Allegations of Wrongful Evictions

Staff Report

- A. 276 Sanchez I003-86E (cont. from 4/19/88)

A tenant of 11 years filed for wrongful eviction when given a notice based on Ord. Sec. 37.9(a)(10)--permanent removal from housing use. The owner intended to demolish the current two-unit building and replace it with a three-story, multi-unit residential care facility, which she would operate. Demolition and general building permits--as well as zoning/planning approval--had been granted before service of the notice. Conditions attached to the permit approval granted automatic permission to subsequently convert the property to a three-family dwelling, without further review. The hearing officer found no wrongful intent but established that no "just cause" reason





exists under the Ordinance for this eviction, since housing/rental use would continue in the replacement structure. Further, the owner admitted she might convert the building to normal residential use when she retired.

EVALUATION & RECOMMENDATION: Despite no improper motives, the eviction remains unlawful for lack of just cause. The case should be monitored.

B. 622 Huron I003-67E (cont. from 4/19/88)

[See case description in IV., A, above.] The tenants were given a defective eviction notice in December 1987, which stated the house must be cleaned and vacated so that it could be prepared for sale. They maintained that their landlords-relatives did not consider selling until the tenants complained vigorously about lack of repairs. One month later they were given a three-day notice for nonpayment of \$1,700 in back rent, which the tenants disputed they had paid in cash to their landlord. The unit was cited as illegal by BBI (after the tenants asked for an inspection), and shortly thereafter violence erupted when construction workers entered without notice to view the apartment and/or dismantle plumbing and fixtures. The owners continue to maintain they must evict in order to sell the building empty of tenants.

EVALUATION AND RECOMMENDATION: There appears to be a retaliatory motive behind the eviction. A stern, cautionary letter be sent the owners and the UD tracked.

C. 1025 Treat Ave. I002-22A

This matter was brought to the attention of the Eviction Unit through the appeal materials. The tenants had been awarded a rent overcharge rebate through a tenant petition before the property had been sold. The new owner insisted he had not been informed by the seller that the tenants could reduce future rent payment to offset the award; he maintained it was the responsibility of the tenants to so inform him. A three-day notice was served before the owner was made aware of the prior rent reduction.

RECOMMENDATION: That the Commissioners write the new owner a cautionary letter advising him to cease efforts to evict the tenants on the basis of withholding amounts awarded by the Board.

D. 1400 Washington St. H004-24E through 30E; H007-89E

This report will be presented at the 5/3/88 meeting.

E. 1310-10th Ave. I003-10E

The tenant and a roommate moved into a three-bedroom house with a resident master-tenant. None of the three had signed nor seen any rental agreement which, apparently, governed prior tenancies. The



master-tenant had outside rabbits in hutches and a large fish tank. When the subject tenant asked the landlord if she could keep an abandoned dog, he gave permission; the parties differ on the duration of this agreement. Shortly after a heated argument between one tenant and the owner, a defective eviction notice was given in October 1987. A legally sufficient notice was served soon after, citing breach of the agreement by keeping pets on the property. Several persons came to view the house without notice, stating they were prospective tenants. Nothing more happened until the master-tenant vacated in late February, as had been planned for several months, at which time the landlord called Pacific Bell and told the phone company to disconnect phone service as the house was vacant.

EVALUATION & RECOMMENDATION: Apparently the tenants neither saw nor signed a rental agreement prohibiting pets. The master-tenant had openly kept pets for several years with at least the tacit agreement of the owner, who admitted allowing the dog to remain for at least a short period of time (which had not elapsed when the eviction was begun). Because of this and the landlord's apparent improper acts with prospective tenants and the phone company, the owner should be sent a stern letter from the Board, cautioning him to learn state and local law or hire a skilled attorney. The UD should be tracked.

MSC: To approve Staff recommendations. (Marshall/Astle: 4-0)

#### VIII. Old Business

The Staff and Commissioners again discussed the meeting with the District Attorney concerning pursuit of wrongful eviction cases.

#### IX. Calendar Items

##### May 3, 1988

4 appeal considerations

4 eviction considerations for staff report

1 eviction reconsideration: 460 Lyon I002-42A

##### May 10, 1988

2 appeal considerations

5:45: appeal hearing: 772 So. Van Ness Ave. #3 I002-37A

#### X. Adjournment

President Carrico adjourned the meeting at 6:55 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
May 3, 1988

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State Building, 350 McAllister St. #1158  
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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff
    1. 2768 Green St. I004-11E
    - 2376 Vallejo H007-34E
    2. 460 Lyon St. I003-98E-93E, I003-95E
  - B. Request for Eviction Reconsideration
    1. 460 Lyon St. I002-42A
- IV. Approval of the Minutes
- V. Consideration of Appeals
  - A. 89 Mirabel Ave. I002-40A
  - B. 1242 Howard St. I002-22R
  - C. 100-20th Ave. #5 I002-24R
  - D. 100-20th Ave. #5 I002-41A
  - E. 676 Geary Blvd. #304 I002-38A
- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment

DOCUMENTS DEPT.

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5/3/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 3, 1988 at  
5:30 p.m. at the State Building, 350 McAllister St. #1158

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DOCUMENTS DEPT.

I. Call to Order

President Carrico called the meeting to order at 5:45 p.m.

MAY 6 1988

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II. Roll Call

Commissioners Present: Astle; Carrico; Gartzman;  
Marshall; Payne.  
Commissioners not Present: Alviar; How; Waller  
Staff Present: Hernandez; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of March 26, 1988 as written.  
(Astle/Payne: 5-0)

IV. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

2768 Green Street/  
2376 Vallejo St.

I004-11E/H007-34E

The tenant in the Vallejo Street unit vacated in reliance on a defective notice for owner-occupancy which was issued by the landlord's son, an attorney, on behalf of his mother. It is unclear whether the landlord or her son actually moved into this unit. At the present time, the landlord appears to have established residency on Vallejo Street, but stays with her son on Green Street several nights per week, due to health problems.

The Green Street tenant was issued a notice to triple her rent and to move within thirty days. The landlord's son/counsel maintains that the landlord has two principal places of residence, and that therefore the property is exempt. He believes that the unit is under-valued, that the tenant should get room-mates to help her pay the rent increase, and maintains that the family needs to extract more revenue from this property in order to help pay inheritance taxes that resulted from a family tragedy.

EVALUATION: The owners are clearly acting improperly. The previous eviction attempts in the Vallejo Street property are suspect; and the effort to claim residency in both buildings is improper. The landlord's son, who admittedly acted in the role of attorney as well as landlord, repeatedly gave legally defective notices; he was very clear





both in writing and at the hearing in expressing purely economic motivation as the reason for the tenant's eviction; and his disregard and/or contempt for the Rent Law was evident.

RECOMMENDATION: That no further action be taken regarding the Vallejo Street property; the tenant may wish to pursue some private action. The Green Street case should be monitored and the landlords asked their intentions in pursuing the matter. If they do not expressly agree to discontinue attempts to evict this tenant, the Board should consider a hearing and referral to the District Attorney.

MSC: To accept staff recommendations. (Astle/Payne: 5-0)

B. Request for Reconsideration

460 Lyon Street

I003-89E through I003-92E  
I003-95E, I002-42A

The tenants have resided in this building for between 10 and 27 years and pay very low rents. The new owners, who wish to evict for owner-occupancy, work for and/or are related to the previous owners, who are real estate brokers. The prospective owners have put up no money for the down payment, and the terms under which they would acquire ownership do not appear financially feasible. No written agreement exists between the new "owners," and they have failed to produce requested documentation regarding the ownership arrangement.

EVALUATION: Giving the landlords the fullest benefit of the doubt, at the very least they perjured themselves under oath. Further, there is sufficient evidence and testimony to suggest that these persons are not bona fide owners but rather "bodies" brought in to decontrol all units by evicting all tenants. Even if they live there for 12+ months - which they may well do now that all this legal attention has been focused on them - their original intent was not, we believe, to live in these units on a long-term basis, as the law envisions.

RECOMMENDATIONS: To deny the landlords' request for reconsideration. The landlords' attorney seems to believe that if his clients have a 10% or more interest, they have satisfied all requirements of the law. No comment was made on the extensive questioning of good faith motives and honest intent. Additionally, the case should be set for a Board hearing for probable referral to the District Attorney, as perjury has been admitted.

MSC: To schedule these cases for a hearing before the Board. (Astle/Payne: 5-0)

MSC: To refer these cases to the District Attorney for investigation of possible perjury. (Marshall/Gartzman: 5-0)

MSC: To deny the landlords' request for reconsideration. (Marshall/Gartzman: 5-0)



V. Consideration of Appeals

A. 67-A Mirabel Avenue I002-40A

As the landlord believed that his postponement request had been granted, he failed to attend the first hearing into this matter. The Board therefore remanded the case for a new hearing. The landlord appeals the decision on remand, alleging that his evidence and testimony had not been considered, as the decreased services and rent increase overpayment results were the same as in the first decision.

MSC: To deny the appeal. (Marshall/Gartzman: 3-2; Carrico, Payne dissenting)

B. 1242 Howard Street I002-22R

The tenants in one unit appeal the pass-through of capital improvements due to alleged health and safety violations in the unit.

MSC: To deny the appeal. (Payne/Astle: 5-0)

C. 100 20th Avenue #5 I002-24R and I002-41A

The hearing officer granted the landlord a rent increase for increased operating expenses and capital improvement pass-throughs and ordered that the tenant be granted a rent reduction due to assumption of PG&E bills after conversion of the heating system. The tenant appeals on the grounds that more of the capital improvements should have been disallowed as unnecessary and that the listed base rent figure should include the decreased services reduction. The landlord also appeals, maintaining that all of the work was necessary and should have been certified and that a \$50.00 per month reduction is excessive for PG&E bills for a one-bedroom apartment.

MSC: To consolidate these cases and accept both appeals for a Board hearing on all issues raised, including hardship. (Payne/Carrico: 5-0)

D. 676 Geary Blvd. #304 I002-38A

As the Commissioners did not receive a complete set of materials, consideration of this appeal was postponed for one week.

VII. Communications

The Commissioners received two extremely complimentary letters regarding presentations given to realty firms by Executive Director Hernandez and eviction unit staff member, Pedro Ruiz.

VIII. Director's Report

A. Director Hernandez reported that he and Rent Unit Supervisor, Delene Wolf, have been attending meetings of the Residential Demolition Task Force.



B. Mr. Hernandez also informed the Board that amendments regarding artist live/work space may be coming before the Planning Commission on Thursday.

MSC: To authorize Commissioner Payne to represent the Board's position on this matter. (Astle/Gartzman: 5-0)

IX. New Business

The problem of the Board's current lack of a Vice-President was discussed. The discussion will be resumed in two weeks.

X. Calendar

May 10, 1988

4 appeal considerations (1 continued from 5/3/88)

5:45 Appeal hearing: 772 So. Van Ness Ave. #3 (I002-37A)

May 17, 1988

1 appeal consideration

1 eviction reconsideration: 346 So. Van Ness Avenue

6:00 Appeal hearing: 100 20th Ave. #5 (I002-24R & I002-41A,  
accepted 5/3/88)

Old Business: Election of new Vice-President?

XI. Adjournment

President Carrico adjourned the meeting at 6:45 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

May 10, 1988

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT

MAY 6 1988

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

- A. 676 Geary #304
- B. 953 Treat Avenue
- C. 254 Dolores St. #1
- D. 1353 Clement Street

- I005-99T (continued from 5/3)
- I002-25R
- I002-43A
- I002-39A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
- 5:45 772 So. Van Ness Ave. #3
- XII. Calendar Items
- XIII. Adjournment

I002-37A (accepted 4/26)





DOCUMENTS DEPT.

MAY 16 1988

SAN FRANCISCO  
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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 10, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Gartzman; Marshall;  
Payne.  
Commissioners not Present: Alviar; Astle; How; Waller.  
Staff Present: Hernandez; O'Hearn.

III. Approval of the Minutes

MSC: To approve the Minutes of May 3, 1988 as corrected on  
page 1. (Marshall/Payne: 4-0)

IV. Consideration of Appeals

A. 676 Geary Blvd. #304 I002-38A

This case was continued from the previous Board meeting. The landlord appeals the hearing officer's decision granting the tenant's petition for a 10% rent decrease to correspond with the landlord's failure to make needed repairs. In addition to disputing the reduction, the landlord notes time period and base rent errors which result in miscalculation of the decrease.

MSC: To deny the appeal, but direct staff to review decrease  
dates and amounts for possible numerical correction.  
(Marshall/Gartzman: 4-0)

B. 953 Treat Ave. I002-25R

Without stating any reason for failing to file an appeal within the 15 day time limit, the tenant submits an appeal 82 days after the mailing of the decision. The tenant states that she did not receive notice of the hearing mailed by the Rent Board on December 1, 1987 and therefore did not appear at the hearing held on December 17, 1987 to raise any defenses to the landlords' capital improvement petition. The landlord give the tenant written notice of the passthrough on November 11, 1987 to be effective January 15, 1988.

MSC: To deny the appeal. (Payne/Gartzman: 3-1; Marshall  
dissenting.)



C. 254 Dolores St. #1

I002-43A

The landlord appeals the hearing officer's decision granting a capital improvement passthrough, as well as an additional operating and maintenance increase. The landlord objects to findings in the instant decision of the hearing officer which differ from those in a prior decision of another hearing officer. He also contends that Rules and Regulations Section 7.13, concerning the valuation of uncompensated labor, was misconstrued in the instant case.

MSC: To remand the case to the hearing officer with instructions to consider uncompensated labor as permitted by the regulations. (Marshall/Gartzman: 4-0)

D. 1353 Clement St.

I002-39A

The landlord disputes both the loss of the tenants' storage space and the \$25.00 corresponding monthly decrease granted by the hearing officer.

MSW: To deny the appeal. (Gartzman/Marshall)

MSC: To remand the case with instructions that the decrease granted to correspond with loss of storage space is excessive and in this particular case should not exceed \$10.00 per month. (Marshall/Payne: 3-1; Gartzman dissenting.)

#### V. Communications

The Commissioners received Rent Board statistics on the number of different cases for April 1988.

#### VI. Director's Report

- A. The Executive Director discussed the April 1988 statistics.
- B. He also reported on the status of proposed legislation recently before the Planning Commission regarding artists live/work space.
- C. The Director also summarized proposed City Budget cuts which were the subject of a recent meeting with the Mayor and all Department Heads.

#### VII. Appeal Hearing

772 So. Van Ness Ave. #3

I002-37A

The Board accepted the landlord's appeal on April 26, 1988. However, due to administrative error, neither the landlord's attorney nor the tenant's interpreter were given notice of the hearing. Since the landlord's attorney is presently out of town, this hearing has been rescheduled to a meeting later in May.



VIII. Calendar Items

May 17, 1988

1 appeal consideration

6:00 Appeal hearing:

100 20th Ave. #5

I002-24R & I002-41A (accepted 5/3)

1 eviction reconsideration: 346 So. Van Ness Avenue

6:30 Eviction hearing: 460 Lyon St.

I003-89E through I002-92E, I003-95E (accepted 5/3/88)

Old Business: Election of new Vice-President.

May 24, 1988

4 appeal considerations

1 eviction reconsideration request

May 31, 1988

5 appeal considerations

June 7, 1988 ELECTION DAY - NO BOARD MEETING.

IX. Adjournment

President Carrico adjourned the meeting at 6:30 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
May 17, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

MAY 16 1988

III. Approval of the Minutes

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IV. Consideration of Appeal

4665 Mission Street

I002-26R

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Appeal Hearing

6:00 100 - 20th Ave. #5  
(accepted 5/3/88)

I002-24R & I002-41A

IX. Consideration of Allegations of Wrongful Evictions

A. Request for Reconsideration

346 So. Van Ness Ave.

I002-44A

B. Hearing

6:30 460 Lyon St.  
(accepted 5/3/88)

I003-89E through I003-92E  
and I003-95E

X. Old Business

Election of Vice-President

XI. New Business

XII. Calendar Items

XIII. Adjournment

1430A





MAY 20 1988

Residential Rent Stabilization and  
Arbitration Board

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 17, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar; Astle; Carrico; Payne.  
Commissioners not Present: Waller.  
Staff Present: Hernandez; Wolf.

Commissioner Marshall appeared on the record at 5:38 p.m. and  
Commissioner Gartzman appeared at 5:43 p.m. Commissioner How appeared  
at 5:58 p.m. and went off the record at 8:36 p.m. Commissioner Astle  
left at 6:02 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 10, 1988 as written.  
(Alviar/Payne: 3-0)

IV. Consideration of Appeals

## A. 4665 Mission Street

The tenant filed a petition regarding alleged decreased housing  
services. As the petitioner failed to appear at the properly noticed  
hearing, the case was dismissed. In her appeal, the tenant maintains  
that medicine she was taking made her sleep through the time of the  
hearing.

MSC: To remand this case for a new hearing.  
(Alviar/Marshall: 4-0)

V. Communications

The Commissioners received the following communications:

A. Memos from the City Attorney's office regarding the  
requirements of the Brown Act and free tickets or passes as a possible  
conflict of interest.

B. A letter from an Oakland property management firm inquiring  
as to a pass-through for penalties for exceeding prescribed water-usage  
amounts.



C. A meeting regarding a Request for Proposal that will be issued by the Mayor's Office of Community Development pertaining to dispute resolution programs.

D. An announcement regarding a series of brown bag workshops on issues surrounding rent control.

VI. Director's Report

The Executive Director reported that he will be attending a meeting of the Finance Committee on May 18th to request the release of funds put in reserve and that the Mayor's office has recommended no cuts for this department.

VII. Old Business

The Board members unanimously elected Commissioner Alviar as the new Vice-President.

VIII. Appeal Hearing

100 20th Avenue #5

I002-24R and I002-41A

Major renovation work required that all nine units in this building be vacated; only the tenant in this unit returned. The landlords petitioned for certification of the work, which was granted in part, and an operating expense increase, which was granted. The hearing officer found that some of the improvements were not necessary for reasons of health or safety and granted the tenant a rent reduction due to the loss of steam heat that had previously been included in the rent.

On appeal, the landlords argued that a DAHI inspection had required that the work be accomplished; that it would not have been practical to re-do the entire building but leave the layout of one unit intact; and that a \$50.00 per month reduction for PG&E bills was excessive. The tenant argued in her appeal that fixtures and appliances allowed by the hearing officer had not needed replacement; that the decision needed certain technical corrections; and that the allowed increase would create a hardship for her. Testimony at the appeal hearing focused on the prior condition of the apartment and rationale for the work performed. After listening to testimony and reviewing all documentation, the Commissioners discussed the case and made the following motion:

MSC: To grant a \$25.00 per month rent reduction for the loss of steam heat paid for by the landlords. If the actual costs prove to be higher, the tenant may file another petition, which the landlord may refute;

To reduce the base rent by the \$25.00 figure prior to calculation of the allowable 4% and 7% operating expense increases;



To disallow the costs of interior painting, carpeting and wall removal;

To certify 1/2 of the cost of drywall installation;

To disallow the costs of the new stove, cabinets, refrigerator, toilet, bathroom sink, track lighting and mini-blinds;

To reduce the cost allowed for electrical work to the amount petitioned for;

To apportion the window costs on a per window basis;

To deny the tenant's claim as to hardship; and

To uphold the hearing officer with regard to all other issues. (Gartzman/Marshall: 5-0)

#### IV. Consideration of Allegations of Wrongful Evictions

##### A. Eviction hearing

460 Lyon Street

I003-89E through I003-92E and  
I003-95E

The tenants have resided in this 7 unit building for between 10 and 27 years and pay very low rents. Five owners wish to evict for themselves and their relatives. At the original hearing, the owners testified that they each paid \$10,000.00 cash toward the down payment, which they could not document. At the hearing before the Board, they admitted their "mis-statements" and that they had put up no consideration for their purchase of the property. As a large balloon payment is due in one year, the landlords allegedly had hoped to renovate the property and re-finance. As the landlords' incomes are marginal, they admit that the financing scheme may be unrealistic, and assert that the uncle who arranged the transaction will forgive the no-interest loan.

Testimony at the hearing focused on the landlords' reasons for wanting to acquire an ownership interest, their ownership agreements, which are not in writing, and the legitimacy of the purchase, as the Eviction Unit's concern is that they are not bona fide owners, but "strawmen" brought in to decontrol all units by evicting the tenants.

Pursuant to Government Code Section 54956.9(a), the Board went into Executive Session at 9:29 p.m. to discuss this case. They returned on the record at 9:45 p.m after having approved the following motions:

MSC: To find that these attempted evictions are wrongful.  
(Marshall/Gartzman: 3-2; Alviar, Payne dissenting)



MSC: To refer these cases to the City Attorney for intervention should the landlords proceed with Unlawful Detainers; and to refer to the District Attorney for investigation and possible prosecution, with special attention to the role played by Emilio Moran, Sergio Iantorno and Antonio Castellucci. (Marshall/Gartzman: 3-2; Alviar, Payne dissenting)

B. Request for Reconsideration

346 So. Van Ness Avenue

I002-44A

The tenant has occupied his three-bedroom unit for 12 years, and is being asked to vacate due to owner-occupancy. The downstairs unit consists of two bedrooms, had undergone recent renovation, and had been vacant until just prior to the tenant in this case receiving notice. Although the units are not comparable, being of different size, the tenant questions why the landlord would need 3 bedrooms for his own use. The tenant also alleges that an offer was made that he could stay if he agreed to a significantly higher rent. As the landlord failed to appear at the hearing, but was instead represented by his attorney, it was difficult for the hearing officer to sufficiently evaluate his credibility. Therefore, although the hearing officer felt that "just cause" might indeed exist, the presence of certain contradictions and unanswered questions indicated possible ulterior motives. The recommendation was that the case continue to be monitored and if bad faith concerns were not cleared up, the case should be considered by the Commissioners.

In his reconsideration request, the landlord maintains that he never offered continued tenancy conditioned on higher rent payment and that he did not appear at the hearing because he had been advised that the tenant and his attorney would not appear.

EVALUATION: There are enough inconsistencies in this case to warrant the hearing officer's determination; however, the matter is not clear enough for further intervention by this Board.

RECOMMENDATIONS: 1. To deny the Reconsideration Request for lack of significant (if any) error; and  
2. To continue to monitor the case.

Unless the tenant is able to show ongoing questionable acts by the owner, no further action should be taken.

MSC: To deny the landlord's request for reconsideration.  
(Marshall/Gartzman: 5-0)





MSC: To accept staff recommendations.  
(Marshall/Gartzman: 5-0)

X. Calendar Items

May 24, 1988

4 appeal considerations

1 eviction reconsideration request

May 31, 1988

5 appeal considerations

5:30 Appeal hearing: 772 So. Van Ness #3 (I002-37A)

June 7, 1988

ELECTION DAY- No Board meeting.

XI. Adjournment

President Carrico adjourned the meeting at 10:19 p.m.





DOCUMENTS DEPT.

MAY 20 1988

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NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

May 24, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Consideration of Appeals
    - A. 866 Post Street I002-45A
    - B. 1436 Kearny I002-27R
    - C. 1369 Hyde I002-46A
    - D. 21-A Alta Street I002-47A
  - V. Communications
  - VI. Director's Report
  - VII. Remarks from the Public
  - VIII. Consideration of Allegations of Wrongful Evictions
    - A. Eviction Reconsideration  
2325 Francisco I002-49A
    - B. Staff Summary  
424 Gates I004-23E
  - IX. Old Business
  - X. New Business
  - XI. Appeal Hearing
  - XII. Calendar Items
  - XIII. Adjournment
- 1435A





SF  
R52  
#2 5/24/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 24, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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DOCUMENTS DEPT.

MAY 26 1988

I. Call to Order

Vice-President Alviar called the meeting to order at 5:42 p.m.

II. Roll Call

Commissioners Present: Alviar, Gartzman, How, Waller  
Commissioners not Present: Carrico, Marshall, Payne  
Staff Present: Hernandez, Wicks

Commissioner Astle appeared on the record at 6:03 p.m. and went off the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 17, 1988, with the following correction:

p. 3, IV. Allegations of Wrongful Evictions: "...and assert that the seller will be flexible in demanding payment on the two balloon payment loans."  
(Gartzman/How: 4-0)

IV. Consideration of Appeals

A. 866 Post Street I002-45A

Seven tenants filed petitions for decreases in service and were granted rent reductions for reduced heat and hot water and conversion to electric heaters; several other problems were held to not constitute decreased services. On appeal the landlord said the tenants exaggerated the extent of the problems; he protested the award for heating conversion; and he questioned the reduction to a tenant whose rental agreement made him responsible for his own heating bills.

MSC: To remand solely on the issue of decreased heat award to the tenant in apartment #1; to uphold the hearing officer on all other issues. (How/Waller: 4-0)

B. 1436 Kearny Street I002-27R

The tenant appealed the hearing officer's determination which allowed a substantial rent increase. When the owner of the property died, his sons offered rent of the house to a friend for a limited period of time, so that the house and decedant's possessions would be secure. It was understood that the sons would have access to dispose of their



father's possessions and wind up his affairs. Payment was \$350 per month plus \$100 for garage space. The tenant disputes the landlords' contention that the agreement was only for use of one room exclusively, plus kitchen and bath and use of the decedant's furnishings. After the tenant insisted he had full use of the premises, the landlords believed the terms of the former agreement were cancelled and agreed to allow full use of the house in return for a higher rent. The tenant appealed the characterization of his role as "caretaker" and felt the original rental agreement covered a regular tenancy.

MSW: To uphold the hearing officer and deny the appeal.  
(How/ )

Because the discussion indicated an inability to reach a consensus, the Board decided to continue the matter for one week.

C. 1369 Hyde Street

I002-46A

This decision was the result of a previous Board remand to further investigate tax data submitted in support of a landlord's petition for operating and maintenance increases. The hearing officer denied any increase because of the landlord's failure to submit accurate information. The tenants produced a closing statement from the title company showing that the landlord had been refunded a large portion of his originally-charged tax assessment, due to an error in reassessing the property. The owner testified that he had experienced difficulty in obtaining full documentation from the previous owners and did not know the taxes had been significantly lowered. The tenants argued that the adjustment had been reflected in the buyer's closing statement, issued three months before the landlord even filed his petition. The hearing officer recommended sending the case to the District Attorney for investigation. The Board was further reminded of several previous wrongful eviction cases, which resulted in the Board's sending a cautionary letter to the landlord and continuing monitoring.

MSC: To deny the landlord's appeal and uphold the hearing officer. To refer the matter to the District Attorney to investigate the charges of wrongful eviction attempts and possible perjury. (Gartzman/Waller: 4-0)

D. 21-A Alta

I002-47A

The landlord protested the hearing officer's decision granting decreased services awards for loss of view, loss of use of a deck, and inability to fully use the apartment for a period of time. The landlord had erected a three-story building in an adjacent lot formerly containing an extensive garden area enjoyed by the tenants in this Telegraph Hill property. The tenant maintained that the view, deck, and garden were instrumental in her deciding to reside in the building. Construction noises kept her from living in her unit during part of the time work was in progress. The landlord argued that the tenant was never promised an unobstructed view, the tenant was aware the garden area was neither permanent nor a service of the unit, and that the awards were improper since the tenant lost neither view nor use of the deck. In rebuttal the tenant submitted a description of the 1439A





property used by the landlord in recent sales attempts, including great emphasis on the garden and view.

MSC: To uphold the hearing officer and deny the appeal.  
(Gartzman/Alviar: 4-0)

#### IV. Old Business

1. Commissioner Astle reported on the procedure for submitting a proposal to the Office of Community Development for funds for alternative dispute resolution. After considerable discussion, the Board voted as follows:

MSC: To submit a proposal to OCD for funds to support Rent Board dispute resolution. (How/Gartzman: 4-0)

#### V. Consideration of Allegations of Wrongful Evictions

##### A. Eviction Reconsideration and Staff Recommendation

2325 Francisco

I002-49A

The landlord requested a reconsideration of the hearing officer's finding of attempted wrongful eviction. The landlords had previously evicted the tenants in the upstairs unit of the subject building for the occupancy of the landlord's son. The son resided in the unit for a little over the mandatory minimum 12 months. That unit remained vacant for several months before being rerented; two months later the subject downstairs tenants were given notice for the occupancy of the landlord's daughter. The landlord indicated that she had not installed her daughter in the previously-vacant unit because the noise of the daughter's child might disturb any downstairs tenants, but no effort had been made to verify such a problem might exist. Further, the owner continued to send legally defective eviction notices despite repeated, detailed instruction from senior Rent Board staff members.

MSC: To deny the request for reconsideration.  
(Gartzman/Waller: 4-0)

MSC: To accept Staff recommendation to write the landlord a stern, cautionary letter and continue to monitor the case. (Gartzman/Alviar: 4-0)

##### B. Staff Summary and Recommendation

424 Gates Street

I004-23E

The subject tenants have lived in their unit a little over a year. Their requests that the landlord make several repairs have either been ignored or incompletely attended to. The tenants filed a petition protesting lack of heat and extermination services, dangerous lighting, gas leaks, and extensive water leakage. The owner admitted she had told the tenants they protested too much. An eviction note was given in February 1988, fully lacking in the necessary legal components. The owner admitted at hearing that she wanted to remove the tenants for 1439A



complaining too much. After the first hearing she gave a notice for occupancy of her granddaughter. At the second hearing the granddaughter said she had been trying to move for two years and was pursuing this unit as a way to help her grandmother with problem tenants. The owner admitted she had sent threatening letters to the tenants. However, she denied her son had called to suggest physical harm might befall the tenants. A declaration under penalty of perjury from a prior tenant indicated that the owner and her son had similarly threatened his family, including threats of future physical harm.

MSC: To accept Staff recommendation that a stern letter be sent the landlord, informing her that the matter would be set for a hearing with referral to the District Attorney if the eviction notice is not rescinded in writing. (Gartzman/Waller: 4-0)

### C. Related Matters

The Eviction Unit Supervisor discussed a streamlined process whereby certain egregious cases--evident on the face of documents submitted--will be referred to the District Attorney without a hearing before the hearing officer. Case I004-73E at 1025 South Van Ness Ave. #4 is the first such case to be so referred.

### VI. Communications

1. The Commissioners received late submissions from parties in the cases pertaining to 1436 Kearny Street and 866 Post Street.
2. The Commissioners read and approved the Board Eviction Summary and Recommendation for 460 Lyon Street.

### VII. Director's Report

1. Executive Director Ricardo Hernandez spoke at length of problems arising from the pending imposition of penalties for water usage beyond the allowed allotment. In recent days Staff has had a deluge of questions from the public on this topic.
2. Mr. Hernandez spoke further about the OCD grant money and procedure for submitting a proposal.

### VIII. New Business

1. Mr. Hernandez passed on the best wishes of the Staff to Commissioner Sandra Gartzman, who will be moving out of the city and resigning from her Commission appointment.



IX. Calendar Items

May 31, 1988

5 appeal considerations

5:30--appeal hearing: 772 S. Van Ness, #3 (I002-37A) contd. from 5/10/88

Eviction Staff Report: 2333 Turk Blvd. I004-35E

June 7, 1988

ELECTION DAY--No Meeting

June 14, 1988

6 appeal considerations

eviction reconsideration: 1316-6th Ave . I002-28R

X. Adjournment

Vice-President Alviar adjourned the meeting at 6:52 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

May 31, 1988

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

MAY 26 1988

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A. 1436 Kearny St.

I002-27R (cont.--5/24/88)

B. 46 and 48 Pueblo Ave.

I002-48A

C. 1668 Fulton Street

I002-50A

D. 60 Montezuma Street

I002-52A

E. 1240 Hayes Street

I002-53A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 2333 Turk Blvd.

I004-35E

IX. Old Business

X. New Business

XI. Appeal Hearing

5:30-- A. 772 So. Van Ness Ave., #3

I002-37A (post. from 5/10/88)

XII. Calendar Items

XIII. Adjournment

1440A







SF  
R52  
# 2  
5/31/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 31, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

The meeting was not called to order due to the lack of a quorum,  
(Commissioner How being the alternate for President Carrico).

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Carrico; How; Marshall.                    |
| Commissioners not Present: | Alviar; Astle; Gartzman; Payne;<br>Waller. |
| Staff Present:             | Hernandez; O'Hearn.                        |

While waiting for a quorum, President Carrico reviewed the request for postponement of the appeal hearing previously rescheduled for this Board meeting. The request received by the Rent Board on May 26, 1988 was apparently not forwarded to the tenants or their interpreter by the landlord's attorney since the tenants appeared for the hearing. President Carrico granted the landlord's request for postponement and determined that the hearing will be rescheduled at the tenants' convenience since they are temporarily leaving the country.

As no additional Commissioners appeared by 6:00 p.m., President Carrico continued the matters scheduled on the agenda to the next Board meeting on June 14, 1988.

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NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
June 14, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\* DOCUMENTS DEPT.

NOV 20 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 1436 Kearny St. I002-27R (cont. from 5/24/88)
  - B. 46 and 48 Pueblo Ave. I002-48A (cont. from 5/31/88)
  - C. 1668 Fulton Street I002-50A (cont. from 5/31/88)
  - D. 60 Montezuma Street I002-52A (cont. from 5/31/88)
  - E. 1240 Hayes Street I002-53A (cont. from 5/31/88)
  - F. 1315 - 6th Ave. #2 I002-59A
  - G. 1272 York St. I002-54A
  - H. 555 O'Farrell St. #105 I002-29R
  - I. 4621-4625 - 18th St. I002-56A
  - J. 286 Connecticut I002-55A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff (cont. from 5/31/88)
    - 1. 2333 Turk Blvd. I004-35E
    - 2. 2768 Green/2376 Vallejo I004-11E & H007-34E
  - B. Request for Reconsideration
    - Pier 39, skip K17 I002-51A
- IX. Old Business
- X. New Business
  - Discussion of proposed legislation imposing rent limits on certain vacated units.
- XI. Calendar Items
- XII. Adjournment





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 14, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
Marshall; McGoldrick; Soulis;  
Villa.  
Staff Present: Hernandez; Wicks.

III. Approval of the Minutes

MSC: To approve the Minutes of May 24, 1988 as written.  
(Astle/Marshall: 5-0)

IV. Consideration of Appeals

A. 1436 Kearny Street I002-27R

This case was continued from the previous meeting due to a lack of consensus by the Commissioners present at that time. The tenant appeared before the Board began its deliberation; he presented a written request for a one week continuance since the parties are in the midst of negotiations.

MSC: To allow a one-week postponement to facilitate negotiations. (Marshall/Astle: 5-0)

B. 46 & 48 Pueblo Ave. I002-48A

The landlord appeals the hearing officer's decision denying the proposed operating and maintenance increase due to inadequate documentation, and granting most of the proposed capital improvement increase. On appeal the landlord disputes the denial of carpeting costs for unit #46 and he submits documentation not in the record to show property loan payments.

MSC: To deny without prejudice for the landlord to refile on the operating and maintenance issues at a later date.  
(Marshall/Astle: 5-0)

C. 1668 Fulton St. I002-50A

The landlord failed to appear at the hearing or to submit a written excuse for non-appearance. Without stating any good cause for his non-appearance, he appeals the hearing officer's decision.



The hearing officer granted the tenant's petition for denial of the annual rent increase based on the landlord's failure to repair and maintain the premises as requested and as required by law. The landlord submits documentation not in the record and which resulted from events after the record closed following the hearing on March 18, 1988.

MSC: To deny the appeal and advise the landlord of the proper procedures to follow. (Marshall/Astle: 5-0).

D. 60 Montezuma St. #1 & #2 I002-52A

The landlord disputes rent decreases granted to correspond with the loss of rodent control and proper plumbing services (30%) for unit #1, an operable oven (15%), plumbing services (15%), adequate window caulking (5%) and pest control services (5%) for unit #2.

MSC: To uphold the hearing officer and deny the appeal. (Marshall/McGoldrick: 5-0)

E. 1240 Hayes St. I002-53A

The landlord appeals the remand decision issued as a result of the landlord's earlier appeal of the original decision on his capital improvement petition. In particular, he objects to the "conditional" granting of a passthrough for hallway painting. The hearing officer determined that the passthrough amount should be offset from a prior amount granted by the Board in 1985 for the same work until that passthrough expires in 1992.

MSC: To uphold the hearing officer and deny the appeal. (Marshall/Astle: 5-0)

F. 1315-6th Avenue #2 I002-59A

Just before beginning deliberations, the Commissioners were given a written statement that the matter had been settled and the appeal withdrawn. Accordingly, no further action was taken by the Board.

G. 1272 York Street I002-54A

This property has been before the Board on several occasions. The tenants had prevailed on an earlier decrease in services case (March 1987). A subsequent decision (December 1987) found an attempted wrongful eviction. The March 1987 decision had indicated the rent could not be raised until all repairs and services had been accomplished; when the tenant declined to pay a rent increase because no work had been done, the owner issued a [defective] eviction notice. In the subject case the tenants proved additional and on-going failures to repair and decreases in service, including no heat for 9 months. On appeal the landlord indicated that all repairs but one had been made at the time of the subject hearing. In rebuttal the tenants stated that one repair was made several weeks after the hearing; the other problems have either not been resolved or have been repaired inadequately.





MSC: To uphold the hearing officer and deny the appeal; to inform the landlord of the proper method for restoring the amount of rent decreased. (Marshall/Astle: 5-0)

H. 555 O'Farrell #105

I002-29R

Shortly before discussion began, the Board was informed in writing that this matter has been settled and the appeal withdrawn. No further Board action was taken.

I. 4621-4625 18th Street

I002-56A

This property has been before the Board on numerous occasions involving several landlords and tenants, including cases of wrongful eviction, decrease in services, failure to repair, operating and maintenance increase, and capital improvement increase. The landlord had been granted a 7% increase for operating and maintenance last year, through 1986. In the present petition the hearing officer found the documentation and figures to be incomplete, inaccurate, and skewed to the point that the actual costs could not be determined. The hearing officer determined that the landlord had failed to meet his burden of proof, and that the documentation submitted created exaggerated, inaccurate results; the petition was accordingly denied. On appeal the landlord asserted that he had not been given an opportunity to adequately present his case and explain why he used the figures he chose.

MSC: To deny the appeal without prejudice to refile when the landlord can provide proper documentation. (Astle/Marshall: 5-0)

J. 286 Connecticut Street

I002-55A

The hearing officer determined this matter under Ordinance Section 37.3(c), which regulates the amount of rent a master tenant can charge a subtenant. For some years the master tenants rented the entire subject building, running their restaurant downstairs and living upstairs. After vacating the residential unit, the landlords rented it to various tenants. During the period the subject tenants rented the apartment, their rent charge was \$850.00; the owner's charge to the master tenants was \$631.00. On appeal the landlords argue that 37.3(c) should not apply in this situation since the agreement was entered into before the effective date of the amendment. Further, the master tenants must pay all utilities and make all repairs, responsibilities not passed on to the subtenants; the hearing officer did not take into consideration these expenses.

MSC: To accept the case for a hearing at the Board level on the rent issues. (Marshall/Astle: 5-0)

#### V. Communications

The following communications were received by the Commissioners:



- A. Letters from the parties at 1436 Kearny, 1315-6th Ave. #2, and 555 O'Farrell St. #105.
- B. The monthly statistics for May 1988. Executive Director Hernandez discussed the increase in evictions for substantial rehabilitation. It was the consensus of the Board that a cautionary, informative form letter should be sent the parties in substantial rehabilitation cases.
- C. An organizational chart of the Rent Board was distributed.
- D. The Board decision for 100-20th Avenue, #5 was considered. Due to the complexity of the case, the Commissioners will review the decision for one week before voting to approve.

VI. Director's Report

- A. Executive Director Ricardo Hernandez extended a welcome from the Staff to the new Commissioners, sworn in by the Mayor Tuesday June 14, 1988.
- B. Mr. Hernandez reported that the Budget Analyst approved the Rent Board budget with only minor deletions.
- C. A report was given on the grant application for a mediation program at the Rent Board.

VII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

- 1. 2333 Turk Blvd. [I004-35E]: This matter is deferred until its scheduled date for an Eviction Reconsideration.
- 2. 2768 Green / 2376 Vallejo [I004-11E & H007-34E]: It was the consensus of the Board for the Eviction Unit to investigate the status of this matter and report back to the Board.
- 3. 1025 S. Van Ness #4 [I004-73E]: The Board was informed of settlement and probable dismissal of the U.D. in this case.

B. Request for Reconsideration

Pier 39, Slip K-17

[I004-42E]

The landlord requested a reconsideration of the hearing officer's determination that jurisdiction applies to the stationary houseboat at issue in this case. The landlord contends that the rental was purely commercial, with no agreement for residential use by the subject tenants, thus making proper eviction for unauthorized use.



MSC: To set the matter for a hearing at the Board level.  
(Astle/Marshall: 5-0)

VIII. Old Business

A. The Commissioners discussed the City Memo prohibiting racial and other slurs by City employees and officials.

MSC: To adopt the policy set forth in the memo.  
(Astle/Marshall: 5-0)

IX. New Business

The Commissioners spent a considerable period of time discussing the proposed Maher amendment, which would prohibit rent increases after certain types of evictions. The Britt amendment on vacancy control will be dicussed at the June 21, 1988 meeting.

X. Calendar Items

June 21, 1988

5 appeal considerations

Consideration of Allegations of Wrongful Eviction:

A. Report from Staff

1. 860 Sutter

B. Requests for Reconsideration

1. 167-21st Ave. #101 [I002-28R]

2. 945 Corbett Ave. #206 [I002-62A]

Old Business

Approval of decision at 100-20th Ave. #3 [rec'd 6/14/88]

New Business

A. Election of Vice-President

B. Discussion of the Britt vacancy control amendment

June 28, 1988

4 appeal considerations

6:00-- Appeal Hearing: 286 Connecticut I002-55A [accepted 6/14/88]

July 5, 1988

4 appeal considerations

6:00-- Appeal Hearing: Pier 39, Slip K-17 I002-51A [accepted 6/14/88]

XI. Adjournment

President Carrico adjourned the meeting at 7:34 p.m.




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6/21/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
June 21, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 903 Pine St. #28 I002-57A
  - B. 145 - 147 Henry St. I002-58A
  - C. 340 Hayes St. #502 I002-30R
  - D. 995 Guerrero St. #2 I002-61A
  - E. 1129 Union St. #4 I002-65A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff  
860 Sutter St.
  - B. Requests for Reconsideration
    - 1. 167 - 21st Ave. #101 I002-28R
    - 2. 945 Corbett Ave. #206 I002-62A
- IX. Old Business
  - Approval of Decision May 17, 1988  
100 - 20th Ave. #5 I002-41A & I002-24R
- X. New Business
  - A. Election of Vice-President
  - B. Rent Ordinance Amendments proposed by Supervisor Britt
- XI. Calendar Items
- XII. Adjournment

DOCUMENTS DEPT.

JUN 21 1988

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 21, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

\*\*\*\*\* DOCUMENTS DEPT. \*\*\*\*\*

JUN 27 1988

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I. Call to Order

President Carrico called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
Marshall; Villa.  
Commissioners not Present: McGoldrick; Soulis.  
Staff Present: Hernandez; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 31, 1988 as written.  
(Marshall/Astle: 5-0)

IV. Consideration of Appeals

A. 903 Pine Street #28 I002-57A

The landlord appeals the hearing officer's decision granting rent reductions due to the loss of a garbage chute and storage space as a result of renovations. The landlord maintains that since the removal was necessitated by health or safety code violations, services provided to the tenant have increased rather than decreased.

MSC: To uphold the hearing officer and deny the annual.  
(Marshall/Hammill: 5-0)

B. 145-147 Henry Street I002-58A

The landlord appeals the hearing officer's denial of his petition for an operating expense increase. The landlord received the maximum 7% increase due to his recent purchase of the property last year. The hearing officer held that the calculation periods used created skewed results, as disfavored in Rules and Regulations Section 6.10(a), as the first petition reflected 5 months of the new debt service payments and this petition shows 12 months of the new mortgage. The landlord's position is that the expenses have clearly gone up for two consecutive years.

MSC: To uphold the hearing officer and deny the appeal.  
(Marshall/How: 5-0)

C. 340 Hayes Street #502 I002-30R

The tenant appeals the dismissal of his petition due to his failure to appear at the properly noticed hearing, as he claims not to have received notice.

MSC: To accept the appeal and remand this case for a new hearing. (Marshall/How: 5-0)

D. 995 Guerrero Street #2 I002-61A

The landlord appeals the hearing officer's decision refunding amounts overpaid due to illegal rent increases, but denying the tenant's claim as to decreased housing services. The landlord claims that the property is exempt from Rent Board jurisdiction, as no residential units existed prior to 1980, but he failed to submit the Certificate of Occupancy requested by the hearing officer.

MSC: To accept this case and schedule a Board hearing on the issues raised in the appeal. (How/Carrico: 4-1; Hammill dissenting)

E. 1129 Union Street #4 I002-65A

The landlord appeals the hearing officer's decision granting the tenant a large refund due to an illegal rent increase in 1984. The tenant had a lease restricting occupancy to one person and, when she got married, negotiated an increase with the landlord in lieu of eviction. The landlord claims that repayment would pose a hardship and that, as the tenant waited 41 months before protesting the increase, the legal theory of laches should apply.

MSC: To accept the appeal and schedule a hearing before the Board. (How/Carrico: 4-1; Astle dissenting)

#### V. Communications

The Board members received the following communications:

A. The Board decision for the case at 100 20th Avenue #5, which was approved by the Commissioners and signed by President Carrico.

B. A memorandum from the clerk of the Board of Supervisors regarding a request by Supervisor Kennedy that there be a hearing regarding coordination of efforts with regard to water penalty pass-throughs.

#### VI. Director's Report

The Executive Director reported that the Finance Committee upheld the Mayor's recommendation of no cuts for this department.

VII. Remarks from the Public

A member of the public inquired as to the possible pass-through of water penalties in the case of a coin-operated laundromat in the building.

VIII. Consideration of Allegation of Wrongful Evictions

A. Report from Staff

860 Sutter Street

It was the consensus of the Board to accept staff's recommendation that the requirements of the Residential Hotel Conversion Ordinance be reviewed for a determination as to the amount of rent that can be assessed after conversion. If the hearing officer's evaluation proves to be correct, as the landlord and/or attorney are ignoring the decision and proceeding with the eviction, this matter should be set for a hearing.

B. Requests for Reconsideration

1. 167 21st Avenue #101 I002-28R

The tenant requests reconsideration of the hearing officer's determination that no wrongful eviction appears to exist in this case. The landlord had medical reasons for needing a unit such as the petitioner's, as it is on the bottom floor of the building. However, there is an unexplained gap between the time when the tenant is being asked to vacate and when the landlord expects to move in, and new submissions by the tenant indicate that there are currently suitable vacant units that the landlord might take.

MSC: To accept the request for reconsideration in this case.  
(Marshall/Astle: 5-0)

MSC: To hold another hearing in this matter to explore the questions raised in the tenant's reconsideration request. (Marshall/Astle: 5-0)

2. 945 Corbett Ave. #206 I002-62A & I004-15E

The landlord requests reconsideration of the hearing officer's determination that a wrongful eviction attempt appears to exist in this case. Various neighbors and representatives of the condominium association have complained on numerous occasions of disturbances in the building caused by these tenants. The hearing officer found, however, that the level of nuisance was insufficient to warrant eviction and that the notice was procedurally defective.

MSC: To deny the request for reconsideration in this case.  
(Marshall/Astle: 5-0)

MSC: To accept staff's recommendation and take no further action in this case, allowing the parties to settle the matter in Court.

IX. New Business

A. Commissioner Astle was unanimously elected Vice-President, with the congratulations of the Board.

B. The Commissioners briefly discussed additional demands on the Board should the vacancy control amendments being introduced by Supervisor Britt pass. The Board members agreed that their response to any of the various amendments pending would be with regard to fiscal and workload impacts only. The Executive Director will prepare a memo projecting increased hearings, staffing requirements and anticipated other costs, if any.

C. Commissioner Astle informed the Board that she will be out of State on July 12th, and any other Commissioner's anticipated absences were discussed due to concerns regarding a quorum.

X. Calendar Items

June 28, 1988

5 appeal considerations (one continued from 6/14)

6:00 Appeal hearing: 286 Connecticut - I002-55A (accepted 6/14/88)

July 5, 1988

4 appeal considerations

6:00 Eviction hearing: Pier 39, Slip K-17 - I002-51A  
(accepted 6/14/88)

6:30 Appeal hearing: 1129 Union #4 - I002-65A (accepted 6/21/88)

July 12, 1988

5 appeal considerations

2 requests for eviction reconsideration

6:00 Appeal hearing: 995 Guerrero #2 - I002-61A (accepted 6/21/88)

XI. Adjournment

President Carrico adjourned the meeting at 6:50 p.m.



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#1

6/28/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

June 28, 1988

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

JUN 27 1988

SAN FRANCISCO  
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 1436 Kearny St. I002-27R (cont. from 6/14)
  - B. 59 Lupine St. I002-63A
  - C. 2947 Folsom St. I002-64A
  - D. 227 Pierce St. #A I002-66A
  - E. 2201 California #23, 31 & 40 I002-67A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Old Business
- IX. New Business
- X. Appeal Hearing
  - 6:00 286 Connecticut St. I002-55A (accepted 6/14/88)
- XII. Calendar Items
- XIII. Adjournment







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 28, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
Marshall; Villa.  
Commissioners not Present: Soulis.  
Staff Present: Hernandez; O'Hearn.

Commissioner McGoldrick appeared on the record at 6:42 p.m.

III. Approval of the Minutes

MSC: To correct the caption of the Minutes of June 21, 1988  
to reflect that date instead of May 31, 1988.  
(Astle/Hammill: 5-0)

MSC: To correct the Minutes of May 24, 1988 on page 2 to  
indicate that the motion at the top of the page  
concerning 1436 Kearny St. was seconded by Commissioner  
Alviar. (Astle/Villa: 5-0)

MSC: To approve the Minutes of June 21, 1988 as corrected  
regarding approval of the Minutes of June 14, 1988.  
(Astle/Villa: 5-0)

IV. Consideration of Appeals

A. 1436 Kearny Street I002-27R

This case was originally scheduled for consideration on May 24, 1988  
and postponed for lack of majority vote. It was postponed again due to  
lack of quorum at the May 31, 1988 meeting and at the June 14, 1988  
meeting was postponed for the parties to pursue settlement. It was  
inadvertently not posted on the agenda for the meeting of June 21, 1988.

MSC: To accept the appeal for hearing before the Board.  
(Astle/Marshall: 5-0)

B. 59 Lupine St.

I002-63A

The hearing officer denied capital improvement increases for roofing and elevator costs, but granted increases for other capital improvements (ranging from \$18 to \$31/mo.) and for increased operating expenses (7%). The landlord disputes the denied increases, as well as the hearing officer's failure to include banked increases in rent computations.

MSC: To accept the appeal and remand the case to another hearing officer with instructions to review the application of Board Rules to the proposed certification of the roof and elevator work.  
(How/Astle: 5-0)

C. 2947 Folsom St.

I002-64A

The landlord contests the rent reduction of \$30.00 to correspond with a hole in the dining room ceiling. The landlord also objects to the hearing officer's determination that "any attempt to remove this property from the Board's jurisdiction based on the recent transfer of an interest to an occupant in the building shall not be considered in good faith."

MSC: To deny the appeal. (Marshall/Astle: 5-0)

D. 227 Pierce St. #A

I002-66A

The hearing officer denied the tenant's petition as to the decreased services claim and granted the petition as to the claim of failure to repair and maintain. As a result, the landlord may not effectuate the proposed banked and annual increases. On appeal the landlord claims that such result exceeds the rent reduction remedy sought by the tenant.

MSC: To deny the appeal. (Marshall/Astle: 5-0)

E. 2201 California St.  
units 23, 31 & 40

I002-67A

The landlord appeals the hearing officer's decision on three consolidated tenant petitions concerning unlawful increases. None of the tenant-petitioners currently remain in occupancy at the building and rent overcharges during their tenancies were originally imposed by the former owner. The current landlord disputes the overcharges and claims that the tenants no longer have standing before the Rent Board.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

#### V. Communications

The Commissioners received no communications other than letters concerning both the Kearny St. and California St. appeals above.



VI. Director's Report

The Executive Director reported that the Board of Supervisor's Land Use Committee will meet later to discuss proposed legislation concerning 1) artist live work space; 2) tenant passthrough of penalty charges for water; and 3) sewage cost increase over the next 5 years.

VII. Appeal Hearing

286 Connecticut St.

I002-55A

The appeal hearing commenced at approximately 6:15 p.m. Only the appellant and her attorney appeared. The tenant-petitioner neither appeared nor submitted a written excuse for non-appearance.

This case concerns the application of Ordinance Section 37.3(c), adopted effective September 13, 1987, which provides that a tenant who subleases a rental unit may charge "no more rent upon initial occupancy" of the subtenant than "that rent which the tenant is currently paying to the landlord."

After the hearing concluded, the Commissioners discussed the case and approved the following motion:

MSC: To vacate the hearing officer's decision and find that Section 37.3(c) does not apply in this particular case because it was not in effect at the time of the subtenants' initial occupancy. (Marshall/How: 5-0)

VIII. New Business

The Board received the drafts of proposed legislation introduced by Supervisor Molinari to amend the Rent Ordinance to allow landlords to pass through penalty charges for water and by Supervisor Maher to provide for initial rent limitations after certain vacancies have occurred. Rent Board President Carrico also submitted a proposal on water rationing passthroughs. The matters will be discussed by the Board at a later meeting.

IX. Calendar Items

July 5, 1988

4 appeal considerations

NO hearing: Pier 39, Slip K-17 - I002-51A  
(accepted 6/14/88, but subsequently withdrawn)

6:30 Appeal hearing: 1129 Union #4 - I002-65A (accepted 6/21/88)

July 12, 1988

5 appeal considerations

2 requests for reconsideration of eviction cases

6:00 Appeal hearing: 995 Guerrero #2 - I002-61A (accepted 6/21/88)

July 19, 1988

4 appeal considerations

6:00 Appeal Hearing: 772 So. Van Ness #2 - I002-37A  
(accepted 4/26/88; postponed from 5/31/88)

July 26, 1988

6:00 Appeal Hearing: 1436 Kearny St. - I002-27R (accepted 6/28/88)

X. Adjournment

President Carrico adjourned the meeting at 6:57 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

July 5, 1988

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A. 42 [38] Washburn St.

B. 2500 Chestnut St.

units 2, 12 & 15

C. 2370 Union St.

D. 1062 & 1066 So. Van Ness Ave.

E. 717 Taraval St.

I002-60A

I002-71A & I002-31R

I002-38R

I002-70A

I002-72A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Discussion of Proposed Legislation concerning the Rent Ordinance

X. New Business

XI. Appeal Hearing

6:30 1129 Union St. #4

I002-65A (accepted 6/21/88)

XII. Calendar Items

XIII. Adjournment

1456A

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 5, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammil; How; Marshall; Soulis; Villa.  
Staff Present: Hernandez; Wolf.

Commissioners Astle and McGoldrick appeared on the record at 5:34 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 28, 1988 as written.  
(Marshall/How: 5-0)

IV. Consideration of Appeals

A. 42 (38) Washburn Street I002-60A

The landlord appeals the hearing officer's decision granting the tenant rent reductions due to the closure of common laundry and dining facilities, loss of sun roof and a clogged bathtub/shower drain. The landlord alleges that the tenant's unit is in a separate structure, with no access or entitlement to use of the common area facilities in the other building; that the drain issue was not raised in the tenant's petition, nor at the hearing; and that the decision contains other factual inaccuracies and errors.

MSF: To accept the appeal and remand this case for a new hearing regarding the decreases in services granted for the loss of sun roof and common kitchen, and to make further findings regarding the drain. (How/Carrico: 2-3; Astle, Marshall, McGoldrick dissenting.)  
MSC: To deny the appeal. (Marshall/Astle: 3-2; Carrico, How dissenting.)

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B. 2500 Chestnut Street  
units 2, 12 and 15

I002-71A and I002-31R

One tenant appeals the hearing officer's decision on remand, certifying extensive renovation work performed by the landlord, but disallowing a greater proportion of the work than the original hearing officer. The tenant alleges that: allowance of a 4% "construction management fee" constituted an abuse of discretion; the estimator's report was superficial and undocumented; and the landlord's petition lacked certificates of completion, as required by Board regulations. The landlord alleges two errors in the decision, maintaining that the rent increase notices were properly served subsequent to the petition having been filed, and that the stated date of the last rent increases issued was incorrect.

MSF: To remand this case for another hearing on the issue of the 4% "construction management fee only.  
(Marshall/McGoldrick: 2-3; Astle, Carrico, How dissenting)

MSC: To deny the landlord's and the tenant's appeals.  
(Astle/How: 4-1; Marshall dissenting)

C. 2370 Union Street

I002-38R

The tenant appeals the hearing officer's decision which failed to grant an on-going rent reduction due to a leaky roof, as the landlord had made several attempts to verify and effectuate repair of the leak after receiving notice from the tenant that the problem had recurred. This property has been at issue in 4 other Rent Board hearings, and the hearing officer found a history of bad faith dealing by both sides - including a pattern of 3 day notices for rent withholding in compliance with decisions of this Board.

MS: To deny the appeal. (Marshall/Astle: 5-0)

D. 1062 & 1066 So. Van Ness

I002-70A

The landlord appeals the hearing officer's decision refunding rent overcharges and granting rent reductions due to habitability problems in two units. The landlord maintains that the tenants voluntarily agreed to the rent increases due to additional occupants' use of additional utilities and that repair problems are promptly remedied.

MSC: To accept the appeal and remand the case for a new hearing regarding the issues of decreased housing services and rent overcharges. (How/Marshall: 5-0)



E. 717 Taraval Street

I002-72A

The tenants in this case entered into a sublease agreement in 1980 which required them to pay their own PG&E bill, which was subsequently modified such that the tenants agreed to an additional \$50.00 monthly rental payment in consideration for the sublessor's payment of PG&E. The hearing officer refunded utility sums overpaid by the tenants. In his appeal, the landlord requests clarification as to the landlord's entitlement to PG&E pass-throughs and alleges that the sublease modification granted the tenants' use of a parking space without any additional consideration to the landlord.

MSC: To deny the appeal. (McGoldrick/Marshall: 5-0)

V. Communications

The Commissioners received the following communications:

A. A Memorandum from the Mayor requesting the Board's input regarding proposed legislation pertaining to the pass-through of penalty charges for water use in excess of that allotted.

B. Tables showing the numbers of petitions filed over the last several years, including Reports of Alleged Wrongful Eviction filed by neighborhood.

VI. Appeal Hearing

The appeal hearing commenced at 6:41 p.m. In attendance were the landlord-appellant, accompanied by her son and her attorney; and the tenant-appellee, accompanied by her husband.

The tenant moved into her one-bedroom apartment in 1983, and signed a lease limiting occupancy to one adult. In 1984, when her boyfriend and future husband moved in with her, the owner demanded that she pay an additional \$150.00 in rent or move out. The tenant maintains that she was unaware that the increase was illegal, which is why she waited 41 months before filing the instant petition. The refund ordered by the hearing officer was in excess of \$7,000.00. At the appeal hearing, the landlord's representative argued that there was not an illegal increase, as the changed terms constituted a re-negotiation and new contract at a decontrolled rent; that the landlord should be allowed retroactive banked increases that she otherwise would have been entitled to; that the length of time elapsed requires the application of the legal theory of laches; and that re-payment would create a hardship for the landlord.

After conclusion of the hearing at approximately 7:35 p.m., the Commissioners discussed the case and approved the following motion:

1461A

MSC: To uphold the hearing officer's decision except for the allowance of a \$25.00 increase for the additional occupant; the repayment schedule ordered by the hearing officer shall remain in effect, even if the tenants vacate. (Marshall/McGoldrick: 5-0)

VII. Old Business

The Commissioners discussed Supervisor Molinari's proposed legislation concerning the pass-through of water penalties. The Board members had two problems with the legislation: the applicability of the PUC's Rule 18 in these situations; and the fact that currently, tenants have no right to petition for a change in their water allotment. The Executive Director will draft a letter expressing these concerns for the Board President's signature.

VIII. Calendar Items

July 12, 1988

5 appeal considerations

2 requests for eviction reconsideration

6:00 Appeal hearing: 995 Guerrero #2 I002-61A (accepted 6/21/88)

Old Business

Water rationing pass-throughs.

July 19, 1988

4 appeal considerations

6:00 Appeal hearing: 772 So. Van Ness #2

I002-37A (accepted 4/26/88, postponed from 5/31/88)

Old Business

Water rationing pass-throughs.

July 26, 1988

2 appeal considerations

6:00 Appeal hearing: 1436 Kearny I002-27R (accepted 6/28/88)

IX. Adjournment

President Carrico adjourned the meeting at 8:25 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
July 12, 1988\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

\*\*\*\*\*

I. Call to Order

II. Roll Call

DOCUMENTS DEPT.

III. Approval of the Minutes

JUL 11 1988

IV. Consideration of Appeals

SAN FRANCISCO  
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A. 1400 Washington St.

I002-73A

B. 3101 Gough St. #102

I002-39R

C. 2730 &amp; 2734 24th St.

I002-68A &amp; I002-69A

D. 1290 Jackson St.

I002-74A and

unit 1, 3, 7, 14 15 &amp; 16

I002-32R through I002-36R

E. 189 Parnassus St. #3

I002-75A

V. Communications

VI. Director's Report

VII. Remarks from the public

VIII. Consideration of Allegations of Wrongful Evictions

Requests for Reconsideration

A. 2333 Turk Street

I002-76A

B. 4052 19th Street

I002-37R

IX. Old Business

Water rationing pass-throughs

X. New Business

XI. Appeal Hearing

6:00 995 Guerrero #2

I002-61A (accepted 6/21/88)

XII. Calendar Items

XIII. Adjournment

1460A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 12, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; How; Lipski;  
McGoldrick; Soulis; Stephenson;  
Villa.  
Commissioners not Present: Astle; Marshall.  
Staff Present: Hernandez; O'Hearn.

DOCUMENTS DEPT.

Commissioner McGoldrick left the record at 6:20 p.m.

JUL 18 1988

III. Approval of the Minutes

SAN FRANCISCO  
PUBLIC LIBRARY

MSC: To approve the Minutes of July 5, 1988 with corrected  
spelling of Commissioner Hammill's name on page 1 and  
the addition of the address and appeal no. for the  
appeal hearing on page 3. (How/McGoldrick: 5-0)

IV. Consideration of Appeals

A. 1400 Washington St. I002-73A

The landlord appeals the remand decision denying the allowable operating and maintenance increase, as well as the annual increase, originally effective October 1, 1987, until after the landlord complies with state and local law regarding requested repairs. The landlord disputes the hearing officer's determination that certain tenant withdrawals or waivers were ineffective and contends that the decision is in error because it is based on events occurring after the record closed for the original decision.

The day before the scheduled appeal consideration of this case, the landlord submitted a 7-page, typed "Supplemental Brief in Support of Appeal." The tenants' attorney submitted a letter to object to the Board's consideration of the supplemental brief since the tenants did not have an opportunity to respond.

MSC: To excuse Commissioner Stephenson from consideration of  
this case. (Stephenson/How: 5-0)

MSC: To deny the appeal. (McGoldrick/Lipski: 4-0)

B. 3101 Gough St. #102

I002-39R

The tenant appeals the hearing officer's decision denying her petition alleging an unlawful rent increase. The hearing officer determined that the current lawful rent is \$821.00, including the garage, based on the amount sought by the landlord and being less than the amount for comparable units. The tenant claims that the rent should be established to be \$345.00 effective April 1986 based on that sum stated in her manager's contract that date, even though she claimed at the hearing that the sum of \$345.00 represented two-thirds of the actual rent.

One week before this scheduled appeal consideration, the tenant submitted a 7-page, typed "Addendum to Appeal." The landlords' attorney submitted a letter to object to the Board's consideration of the addendum and, alternatively, request a postponement of consideration in order to allow time for a response.

MSC: To postpone Board consideration of this case until the next meeting so that the landlord could respond to the tenant's addendum. (How/Stephenson: 5-0)

C. 2730 & 2734 - 24th St.

I002-68A & I002-69A

Based upon the determination that the landlord had not proven that he resides at this four residential unit property, the hearing officer found that the property is subject to the jurisdiction of the Rent Board. As result, the landlord's proposed rent increases from \$256.50 to \$850.00 and \$300.00 to \$900.00 are null and void. The hearing officer also granted rent reductions to correspond with decreased housing services. The landlord, who did not appear at the hearing and who provides no excuse for his non-appearance, claims on appeal that the property is exempt because he has resided at the property since May 31, 1987.

MSF: To deny the appeals. (McGoldrick/Stephenson: 2-3; How, Lipski and Carrico dissenting)

MSC: To accept the appeals for hearing before the Board. (How/Carrico: 5-0)

D. 1290 Jackson St.  
units 1, 3, 7, 14, 15 & 16

I002-74A &  
I002-32R through I002-36R

Both the landlord and the tenants appeal the hearing officer's decision on the landlord's petition for capital improvement rent increases. The landlord objects to the lateness of the appeal submitted by the tenants. The landlord claims that the hearing officer erroneously relied upon the estimator's report in reducing the pass-throughs to monthly sums ranging from \$141.93 to \$212.48 per unit. The tenants claim that the pass-throughs should be reduced further to approximately \$166.00 per month per unit (\$120 plus interest) based on original estimated costs of \$150,000 for the entire building.

Since two of the Commissioners did not receive all of the documents submitted in this case, it was the consensus of the Board to postpone consideration of these appeals until the next meeting.

E. 189 Parnassus St. #3

I002-75A

The landlords appeal the hearing officer's decision on consolidated petitions of both the landlord for capital improvement increases and the tenant for rent decreases corresponding to decreases in housing services. The landlords claim that part of the roofing materials were erroneously not included in the authorized pass-through of \$47.18 per month, and they object to the authorization of any rent reduction based on their denial of any decrease in housing services.

MSC: To accept the appeal and remand the case to the hearing officer with instructions to review the on-going rent reduction issues since it is the sense of the Board that the modifications of the bathroom and kitchen windows do not constitute a substantial decrease in housing services. (How/Lipski: 3-2; McGoldrick and Stephenson dissenting)

V. Appeal Hearing

995 Guerrero St. #2

I002-61A

The hearing commenced at approximately 6:25 p.m. with the landlords' son, the landlords' attorney, the tenants and the tenants' attorney. The landlord claims that the property is exempt from Rent Board jurisdiction, as no residential units existed prior to 1980 when they were built on top of an existing structure which contained a commercial unit. The Certificate of Occupancy records are missing, but will be re-created by the Department of Public Works.

Following the hearing, the Commissioners discussed the case and issues raised in the interpretation of Ordinance Section 37.2(p)(6) concerning rental units in a structure for which a certificate of occupancy was issued and Rules and Regulations 1.15(f) referring to newly constructed rental units. Noting the intent of the Ordinance, the Board approved the following motion:

MSC: To vacate the Hearing Officer's Decision and declare the structure exempt because the rental units were built after the adoption of the Rent Ordinance. (How/Carrico: 3-2; Hammill and Stephenson dissenting)

VI. Consideration of Allegations of Wrongful Evictions

Requests for Reconsideration

A. 2333 Turk Street

I002-76A

The landlord contends that there was no vacant unit in the building and that he had not pursued an unlawful detainer action in court. However, 1466A



the surviving tenant has been "rejected" several times in his attempt to pay the rent. Although the tenant has been there for 9 years with the landlord's knowledge, the owner does not consider him an approved tenant since he was not an "original" tenant.

Immediately after being informed of the death of the original tenant, the landlord served an eviction notice. Although the owner's son allegedly needed the unit for himself and his bride, the son testified that he might get married at the end of this year or the beginning of next year. Additionally, the second eviction notice indicates that the "owner wishes to occupy the property." [Emphasis added].

As the eviction notices are legally invalid and the good faith intentions are cast in a suspicious light, staff recommends that Board deny the landlord's request for reconsideration and write a strongly worded letter to the owner, asking for a statement of his intentions in pursuing the eviction. If he indicates he will go ahead with a court action, the Board might consider hearing the matter.

MSC: To adopt the recommendation of staff and to address the requested corrections in the Board's letter to the landlord. (Hammill/Lipski: 5-0)

B. 4052 Turk St.

I002-37R

Although the tenant remains out of occupancy pending completion of rehabilitation work necessitated by a fire in the building last December, the landlord gave notice of the annual increase to be imposed July 1, 1988. The tenant requests a Board determination to adjust the rent anniversary date based on the amount of time the tenant is out of possession. The hearing officer notes that the Ordinance does not provide for waiver of the anniversary date due to loss of occupancy for rehabilitation. Staff recommended that the Board accept the case for Board hearing on this issue since there does not appear to be an incentive for completing work in a timely fashion.

The Hearing Officer recommended that the Board monitor the case and write to the parties reaffirming the requirements stated in the Hearing Officer's evaluation and providing an explication of the rights and duties of the parties.

MSC: To write a strongly worded letter to the parties reaffirming the requirements stated by the hearing officer and to notify the landlord that rent increases may not be imposed unless a tenant is in occupancy, but instead may be banked or imposed after the tenant re-occupies. (How/Carrico: 5-0)

#### VI. Communications

In addition to receiving late submissions on appeal considerations, the Commissioners received a copy of the press release from the Mayor's Office dated July 11, 1988 concerning the appointments of new Commissioners Joel Lipski and Denise Stephenson.

VII. Director's Report

The Executive Director reported on his conversation with the Mayor concerning the proposed legislation concerning water rationing pass-throughs. The Mayor requested that the Director meet with the Deputy Mayor, a PUC representative, a the Director of the Water Department and a budget analyst. The Mayor also requested that any administrative hearings generated by this legislation be paid for by the participants so that additional funds would not be needed by the Board.

VIII. Old Business

The Board continued its discussion concerning water rationing pass-throughs to the next Board meeting.

IX. Calendar Items

July 19, 1988

6 appeal considerations (2 continued from 7/12/88)

Appeal hearing: 772 So. Van Ness #2,

I002-37A (accepted 4/26/88, postponed from 5/31/88)

Old Business: water rationing pass-throughs.

July 26, 1988

6 appeal considerations

Appeal hearing: 1436 Kearny, I002-27R (accepted 6/28/88)

August 2, 1988

3 appeal considerations

Appeal Hearing: 2730 & 2734 - 24th St. (accepted 7/12/88)

X. Adjournment

President Carrico adjourned the meeting at 8:15 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

July 19, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A. 3101 Gough St. #102

B. 1290 Jackson St.  
units 1, 3, 7, 14, 15 & 16

C. 920 Leavenworth St. #405

D. 2888 - 16th St. #6

E. 3649 Market St.

F. 2340 Vallejo St. #200

I002-39R (cont. from 7/12/88)

I002-74A &amp; I002-32R through

I002-36R (cont. from 7/12/88)

I002-40R

I002-77A

I002-78A

I002-79A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 2000 - 19th St.

B. 3808 Irving St.

I004-51E

I004-57E

IX. Old Business

A. Water rationing pass-throughs

B. Rent Ordinance legislation proposed by Supervisor Maher

X. New Business

XI. Appeal Hearing

6:00. 772 So. Van Ness Ave. #3

I002-37A (accepted 4/26/88)  
(cont. from 5/31/88)

XII. Calendar Items

XIII. Adjournment

1464A



SAN FRANCISCO  
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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 17, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
Lipski; Marshall; Stephenson.  
Commissioners not Present: McGoldrick; Soulis; Villa.  
Staff Present: Hernandez; Wolf.

Commissioners Astle and How went off the record at 7:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 12, 1988 as written.  
(How/Hammill: 5-0)

IV. Consideration of Appeals

A. 3101 Gough Street #2 I002-39R (cont. from 7/12/88)

The tenant appeals the hearing officer's decision denying her petition alleging an unlawful rent increase. The hearing officer determined that the current lawful rent is \$821.00, including the garage, based on the amount sought by the landlord and being less than the amount for comparable units. The tenant claims that the rent should be established to be \$345.00 effective April 1986 based on that sum stated in her manager's contract that date, even though she claimed at the hearing that the sum of \$345.00 represented two-thirds of the actual rent.

MSC: To deny the appeal. (Astle/How: 4-1; Marshall  
dissenting)

B. 1290 Jackson Street I002-74A & I002-32R through  
#1, 3, 7, 14, 15 & 16 I002-36R (cont. from 7/12/88)

Both the landlord and the tenants appeal the hearing officer's decision on the landlord's petition for capital improvement pass-throughs. The landlord objects to the lateness of the appeal submitted by the tenants. The landlord claims that the hearing officer erroneously relied upon the estimator's report in reducing the pass-throughs to monthly sums ranging from \$141.93 to \$212.48 per unit. The tenants claim that the pass-throughs should be reduced further to approximately \$166.00 per month per unit (\$120.00 plus interest) based on original estimated costs of \$150,000.00 for the entire building.

MSC: To deny the landlord's appeal and accept the tenants' appeal for a Board hearing on the issue of hardship only. (Marshall/How: 5-0)

C. 920 Leavenworth St. #405 I002-40R

One tenant appeals the hearing officer's decision on remand granting the landlord increases due to operating expenses. The landlord's petition had originally been denied as the hearing officer held that the calculation periods used by the landlord created skewed results, as disfavored under Rules and Regulations Section 6.10. On remand, the landlord explained the use of time periods which go back 18 to 30 months to the satisfaction of the hearing officer. The tenant maintains that the calculation periods are specifically disallowed under the Rules and Regulations and that the increase, in combination with banked and capital improvement increases, pose a hardship.

MSC: To deny the appeal. (Astle/Hammill: 5-0)

D. 2888 16th Street #6 I002-77A

The landlord appeals the hearing officer's decision denying decreased services claims but granting reimbursement due to rent increases over the allowable amounts. The landlord maintains that the illegal rent increases were imposed due to the presence of additional occupants in the unit, which was part of a verbal agreement between she and the tenant.

MSC: To accept the appeal and remand this case to the same hearing officer to review the rent history for possible allowable banking back to April 1982 and recalculation of rent overcharges, if necessary. (How/Marshall: 5-0)

E. 3649 Market Street I002-78A

The landlord appeals the hearing officer's decision granting a retroactive rent reduction due to serious leaks in the tenant's bathroom. On appeal, the landlord claims that: the tenant refused access to workmen attempting to make repairs; the tenant aggravated the problem by using her shower before caulking had set; the tenant's complaints were mostly trivial in nature; and the tenant's allegations of harassment were unsubstantiated.

MSC: To deny the appeal. (Astle/Marshall: 4-1; Carrico dissenting)

F. 2340 Vallejo Street #200 I002-79A

The landlord appeals the hearing officer's decision granting reimbursement of substantial rent overcharges. The landlord maintains that the base rent figure used by the hearing officer is incorrect due to an agreement allowing for a temporary rent reduction due to lack of carpets; and that the hearing officer's computation of the overcharges is in error.

MSC: To deny the appeal. (Astle/Marshall: 4-1; Carrico dissenting)

V. Appeal Hearing

772 So. Van Ness Ave. #3

I002-37A (accepted 4/26/88)  
(cont. from 5/31/88)

The hearing commenced at 6:15 p.m. with the landlord and her attorney in attendance; the tenant was accompanied by her husband, children and an interpreter. The tenant petitioned regarding improper rent increases, decreased services, and failure to maintain and repair. At a Rent Board hearing in 1984, the parties had reached a conciliation concerning future rent increases, but past improper increases and rationale for designation of a base rent figure were not addressed. The hearing officer in the instant case voided two of the improper increases and established a base rent for recalculation of later correct increases. For lack of notice to the landlord, the remainder of the tenant's petition was denied. On appeal the landlord asserted that the previous rent increases had been adjudicated in 1984 and that the increases prior to that time accommodated additional tenants and approval of previously unapproved subtenants.

Following the hearing, the Commissioners discussed the case and approved the following motion:

MSC: To uphold the hearing officer's decision, but order the tenant to pay at least one-half of the monthly rent due each month commencing with the first rental payment due after receipt of the Board's decision in this matter.  
(Marshall/Hammill: 3-2; Carrico, How dissenting)

VI. Communications

The Board received new rosters of Commissioners and active Hearing Officers as well as their decisions in the cases at 1129 Union #4 (I002-65A), which was approved and signed by President Carrico, and 286 Connecticut (I002-55A) which will be revised by staff.

VII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 2000 19th Street

I004-51E

The tenant received an eviction notice after having prevailed in a Rent Board hearing on various service decreases and failures to repair. The notice was for non-payment of rent, after the rent check slipped under the door disappeared (the tenant had phoned the Fire Department as he thought he smelled a gas leak in the landlord's apartment, which resulted in the door being broken down and the check being lost). A second 3-day notice for nuisance blamed the tenant for disrepairs to the unit that he had repeatedly brought to the owner's attention over the years.



MSC: To accept the staff recommendation to determine whether the owner is proceeding with an Unlawful Detainer filed in early April 1988, via a strongly-worded letter from the Board. If the landlord is proceeding, the matter should be heard by the Commissioners for possible referral to the District or City Attorney.  
(Marshall/Lipski: 4-0)

B. 2808 Irving

I004-57E

The tenant received an eviction notice for nuisance; the record shows evidence of possibly improper acts by both the landlord and the tenant in this case.

MSC: To accept the staff recommendation to continue to monitor the case but, as an Unlawful Detainer has been filed, to leave the matter to the courts to resolve.  
(Marshall/Lipski: 4-0)

#### VIII. Old Business

A. The Board briefly discussed pending legislation regarding the pass-through of penalties for water consumption over the allotted amount. Should the proposed legislation pass out of the Supervisor's Land Use Committee, the Executive Director will prepare draft regulations for the Board's review.

B. The Commissioners discussed a draft letter from the Board to the Clerk of the Board of Supervisors regarding pending eviction legislation proposed by Supervisor Maher. Staff will re-write the letter and incorporate the Commissioner's suggested changes.

#### IX Calendar Items

##### July 26, 1988

6:00 6 Appeal considerations  
4 eviction case summaries  
Appeal hearing: (accepted 6/28/88)  
1436 Kearny St. I002-27R  
Old Business:  
Water rationing pass-throughs  
Maher eviction amendments

##### August 2, 1988

6:00 4 Appeal considerations  
Appeal hearing: (accepted 7/12/88)  
2730 & 2734 24th Street I002-68 & 69A  
Old Business  
Water rationing pass-throughs  
Maher eviction amendments

August 9, 1988

6:00      Appeal hearing:                      (accepted 7/19/88)  
            1290 Jackson Street                  I002-32 through 36R  
            Old Business:  
            Water rationing pass-throughs  
            Maher eviction amendments.

V.      Adjournment

President Carrico adjourned the meeting at 8:42 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
July 26, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

|    |                         |          |
|----|-------------------------|----------|
| A. | 2200 Beach Street       | I002-80A |
| B. | 526 Natoma Street       | J001-01A |
| C. | 580 Beach Street        | J001-03A |
| D. | 850 Geary Street #2     | J001-01R |
| E. | 37 States Street #3     | J001-02A |
| F. | 1456B So. Van Ness Ave. | J001-04A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

|    |                       |                     |
|----|-----------------------|---------------------|
| A. | 1040 Fell Street #1   | I004-83E            |
| B. | 1156 So. Van Ness     | I004-81E            |
| C. | 4621 18th Street      | I005-39E            |
| D. | 144-148A Clinton Park | I004-29E & I004-34E |

- IX. Old Business
  - A. Water rationing pass-throughs
  - B. Maher eviction amendments

- X. New Business
- XI. Appeal Hearing

6:00 1436 Kearny Street I002-27R (accepted 6/28/88)

- XII. Calendar Items
- XIII. Adjournment

DOCUMENTS DEPT.

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 26, 1988  
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

\*\*\*\*\*

I. Call to Order

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President Carrico called the meeting to order at 5:30 p.m.

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II. Roll CallSAN FRANCISCO  
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Commissioners Present: Astle; Carrico; Hammill; Lipski;  
Marshall; Stephenson; Soulis;  
Villa.

Commissioners not Present: How.

Staff Present: Hernandez; Wicks.

Commissioner McGoldrick appeared on the record at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 19, 1988 as written.  
(Astle/Hammill: 5-0)

IV. Consideration of Appeals

A. 2200 Beach Street

I002-80A

The landlord appealed the hearing officer's ruling which denied a petition for operating and maintenance (O & M) increases. After disallowing the majority of the costs claimed, the remaining increases were covered by the annual 4%. On appeal the landlord argued that although he obtained an O & M increase last year, the tax figures used were not duplicative or skewed; and that a bill for remedying problems in one shower were repairs, not capital improvements, despite the cost of over \$2,000.

MSC: To deny the appeal without prejudice to file for  
capital improvements on the shower.  
(Astle/Marshall: 5-0)

B. 526 Natoma Street

J001-01A

The hearing officer's determination was appealed by the landlord because reimbursement for rent overcharges of \$1,480.00 was given the tenants. The landlord agreed she had mistakenly charged prorated amounts but maintained that she had assessed only a small portion of the utility costs allowed by the rental agreement.

MSC: To uphold the hearing officer and deny the appeal.  
(Villa/Astle: 5-0)

C. 1580 Beach St. #202

J001-03A

The rent increases at issue were imposed by the previous owner. Because the tenant was out of state for some time, the landlord had delayed the annual increase five months until the tenant's return in March, then given the next increase in November, as had been done in the past. An additional \$100 was assessed when the tenant married, and later \$25 was agreed to for addition of storage space. The hearing officer found several increases null and void because they were excessive and imposed less than 12 months apart; he further found that a new anniversary date had been established when rent was increased for the storage space. On appeal the current owner objected to both the anniversary date changes and voiding of increases for the additional tenant.

MSC: To accept the appeal at the Board level on all issues raised. (Villa/Carrico: 5-0)

D. 850 Geary Blvd. #2

J001-01R

The tenants appealed the hearing officer's ruling that denied their petition for failure to maintain and repair, citing problems with leaks, pests, insufficient electrical outlets, and plumbing. The petition was denied because the problems had been abated, were insignificant, or were continuing because the tenants did not allow access for repairs. The hearing officer recommended filing another petition if the bathroom leak was not fixed by a certain date, assuming proper access was allowed. On appeal the tenants stated that the leak has not been repaired despite allowing access on eleven occasions since the hearing.

MSC: To deny the appeal without prejudice to refile as directed in the decision. (Aistle/Villa: 5-0)

E. 37 States Street #3

J001-02A

The tenant filed a petition for decreased services in that the swimming pool in the complex had never been heated, despite representations by the manager that a new heater had been installed and would be working within a month of the tenant's moving in. A previous tenant had prevailed in a 1985 hearing. The subject tenant was allowed a 5% rent decrease. On appeal the landlord argued that the pool had never been advertised as heated and that the rebate for the previous tenant had been given because the pool could not be used at all in part of 1985.

MSC: To uphold the hearing officer and deny the appeal. (Villa/Hammill: 5-0)

F. 1156B So. Van Ness Ave. J001-04A

This case involved a petition based on decreased services and alleged retaliatory eviction for requesting repairs. The landlord maintained at the hearing and on appeal that the property is exempt from the Rent Ordinance because of owner occupancy. The tenant maintains that there are five rental units on the property. The landlord states there are three rental units and that a unit rented by the previous owner is vacant and will remain so since it is nonconforming.

MSC: To accept the appeal for a hearing at the Board level.  
(Astle/Villa: 5-0)

V. Communications

The following communications were received by the Board:

- A. Letters to the Clerk of the Board of Supervisors with comments on the proposed Maher Amendment and proposed Molinari Amendment;
- B. Letters from parties concerning the cases at 1156B So. Van Ness and 1436 Kearny;
- C. A memorandum on conflict of interest laws;
- D. A request for a postponement of the Board hearing for 2724 and 2730-24th Street, which was granted;
- E. The petition to dismiss the action and settlement agreement for the parties at 1436 Kearny;
- F. An article from the Recorder concerning a \$150,000 award for wrongful eviction of a tenant with AIDS;
- G. Decisions for 286 Connecticut, 1129 Union, and 995 Guerrero, which were signed; and
- H. A request for action from Supervisor Britt and a tenant's declaration concerning 4621 - 18th Street.

VI. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 1040 Fell Street, #1 I004-83E

The tenant and landlord have a history of poor dealings with each other. In April 1988 the tenant tendered a 30-day notice of intent to vacate. Before expiration of the period, he requested more time, which the landlord denied because he had allegedly rented the unit to a prospective tenant. The subject tenant then wrote rescinding his notice to vacate. The landlord immediately gave a defective notice. Several days later a valid notice was given, stating nuisance as the reason. The owner admitted the problems referred to had occurred two years previously.



Recommendation: Rescission of a notice to vacate does not constitute a valid reason to terminate tenancy, and a landlord cannot try to act on damage incurred years previously and not pursued at that time. There appears to be a retaliatory eviction attempt, and the landlord should be sent a cautionary letter. The tenant should be cautioned, as well.

B. 144-148A Clinton Park I004-29E & I004-34E

An extended family of four couples and two single individuals purchased a six-unit building. Eviction notices were given to several tenants although the deed had not been recorded at the time. Various actions of the landlords' agents caused the tenants to believe the eviction attempts were wrongful, as did the existence of a long-vacant unit. Just before reporting to the Board on this matter, the Eviction Unit was informed by the tenants' attorney that the case had been settled.

Recommendation: For the Eviction Unit to determine if further Rent Board action is required in this matter.

C. 1156 So. Van Ness Ave. I004-81E

This case was also the subject of an appeal consideration. [See IV., F above.] Even if the property is exempt, the landlord's actions appear to be retaliatory since he could not explain any reason for eviction, and the tenant has repeatedly asked for repairs.

Recommendation: To take no action if the Board finds the property to be exempt, other than informing the landlord of prohibitions in state law against retaliation.

MSC: To accept Staff recommendations on the above cases.  
(Astle/Villa: 5-0)

D. 4621 - 18th Street I005-39E

This case and related matters of this and other tenants have been before the Board on numerous occasions, involving several wrongful eviction attempts, decreases in services, and operating and maintenance. Eviction attempts continue with one tenant. Two Board of Supervisor members have asked for information, and Supervisor Britt continues to ask for further Rent Board action. The Eviction Unit Staff is currently consulting with the District Attorney's office and the office of Supervisor Britt.

Recommendation: To refer the matter directly to the District Attorney for investigation and both criminal and civil action.

EXECUTIVE SESSION: The Board went into Executive Session at 6:24 p.m., pursuant to Government Code Section 54956.9(a)(1). They returned on the record at 6:28 p.m. after approving the following motion.

MSC: To send the case to the District Attorney as recommended.  
(Marshall/Astle: 5-0)

VII. Old Business

- A. The Commissioners discussed and signed their response to a request for comments on the proposed Molinari Amendment on water usage penalties.
- B. The Board also discussed and signed comments concerning the proposed Maher Amendment on rent limitations after eviction, as requested by the Clerk of the Board of Supervisors.

VIII. Appeal Hearing

1436 Kearny Street

I002-27R (accepted 6/28/88)

Since the parties had settled and withdrawn their appeal and petition, the matter was dismissed.

IX. Calendar Items

August 2, 1988

5 appeal considerations

August 9, 1988

5 appeal considerations

Appeal Hearings:

|      |                         |                                |
|------|-------------------------|--------------------------------|
| 6:00 | 1290 Jackson St.        | I002-32-36R (accepted 7/19/88) |
| 6:30 | 1156B So. Van Ness Ave. | J001-04A (accepted 7/26/88)    |

August 16, 1988

NO BOARD MEETING

X. Adjournment

President Carrico adjourned the meeting at 6:45 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

August 2, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

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- |    |                         |                     |
|----|-------------------------|---------------------|
| A. | 1350 Washington St. #24 | J001-02R            |
| B. | 55 Delmar St.           | J001-06A            |
| C. | 1857 - 18th Ave.        | J001-05A & J001-03R |
| D. | 223 Granada Ave.        | J001-07A            |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment



AUG 8 1988

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 2,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Vice President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;  
Marshall; McGoldrick; Soulis.  
Commissioners not Present: Carrico; Stephenson; Villa.  
Staff Present: O'Hearn; Ruiz.

III. Approval of the Minutes

MSC: To approve the minutes of July 26, 1988 as written.  
(Marshall/Lipski: 5-0)

IV. Consideration of Appeals

A. 1350 Washington St. #24 J001-02R

The tenant appeals the remand decision issued as a result of his earlier appeal (No. I002-12R considered on April 5, 1988) of the decision on his landlord's petition for certification of capital improvements and increased operating expenses. The remand hearing was limited to the operating and maintenance issues raised on appeal. The tenant again contends that the landlord has failed to meet his burden of proof by not providing adequate documentation to support his claim. In particular, the tenant complains that the 7% (\$39.75) operating and maintenance increase granted on remand (as the result of additional documentation submitted by the landlord) exceeds the amount (\$21.30) originally granted.

MSC: To deny the appeal. (How/McGoldrick: 5-0)

B. 55 Delmar St. J001-06A

In reply to the tenant's response to the landlord's appeal, the landlord's attorney submitted a memorandum on the date of appeal consideration. He also submitted a letter requesting that Commissioner Astle recuse herself from consideration of the appeal based on his perceptions of her personal animosity towards the attorney involved. The Commissioners read both the letter and reply memorandum before considering the case. Commissioner Astle declined to recuse herself, but made no comments on consideration of the case.

The tenant filed a petition alleging an unlawful rent increase. In October 1986 the tenant acquired a new roommate and the landlord assessed an additional \$256.00 per month to which the tenants agreed. The original rental agreement limited occupancy to three adults. The hearing officer found that the tenant is both a tenant as defined by the Rent Ordinance and an "original" tenant as interpreted by the Board in its 1981 decision on appeal concerning DeWolf Realty (No. B136-25). The landlord appeals for the following reasons: (1) the rent increase is permitted because when the new roommate moved in, a new tenancy was created; (2) the petition should be denied under the principle of estoppel; and (3) the Rent Board has no authority to order rent overpayments to be offset against rent.

Commissioner Hammill expressed concern over the ethics of the attorney who threatened to evict the tenants in the event they prevailed in the Rent Board proceedings (Finding of Fact #6 of the Decision).

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

C. 1457 18th Avenue J001-03R & J001-05A

The landlord filed a petition to raise the rent above the allowable amount based on increased operating and maintenance expenses. The landlord and the tenant both appeal the hearing officer's ruling that the Rent Board does not have jurisdiction over this 2-unit building based on owner occupancy. On appeal the tenant argues that this issue had not been raised by the petition and the landlord requests that the Board reconsider his petition for the rent increase.

MSC: To accept both appeals and remand the case for a hearing before another hearing officer.  
(Marshall/How: 5-0)

D. 223 Granada Avenue J001-07A

The tenants filed a petition claiming a substantial decrease in services without a corresponding decrease in rent for lack of a sanitary, unobstructed front yard, inadequate plumbing, and loss of parking for three cars. The hearing officer granted the petition and on appeal the landlord argues that: (1) the determination that he failed to act promptly or reasonably is not supported by the testimony; (2) the past decrease in rent for the unsafe lower kitchen floor should not be applicable in April 1987; (3) he is not responsible for the decrease in services reduction from October 1987 to June 1988, because he no longer owns the building; (4) he cannot comply with the establishment of the new base rent of \$807.50 per month because he no longer owns the building; (5) the hearing officer neglected to consider the testimony of the two plumbers present at the hearing.

MSC: To deny the appeal. (Marshall/How: 5-0)

#### V. Communications

The following communications were received by the Board:

1482A

A. A letter and reply memorandum for the above appeal concerning 55 Delmar Street; and

B. A letter from former Rent Board Commissioner Ralph Payne regarding community meetings, along with a recent newspaper article regarding a person with AIDS who had successfully won a wrongful eviction case in court.

VI. Director's Report

A. The Deputy Director reminded the Board that the Executive Director was on vacation for two weeks.

B. The Deputy Director informed the Board that she would be a guest panelist on a radio program taping Thursday and airing next Tuesday (KALW).

VII. Remarks from the Public

A party from the Granada Avenue case above stated that she was impressed with the Board's professionalism and fairness in the case.

VIII. New Business

Commissioner Astle discussed the need for considering and reviewing any proposed changes to the Rules and Regulations. Board members agreed to bring a list of proposed concerns to be discussed on August 30, 1988.

IX. Calendar Items

August 9, 1988

5 appeal considerations

Appeal hearings:

|      |                        |                                |
|------|------------------------|--------------------------------|
| 6:00 | 1290 Jackson St.       | I002-32-36R (accepted 7/19/88) |
| 6:30 | 1156 So. Van Ness Ave. | J001-04A (accepted 7/26/88)    |

August 16, 1988 - No Board Meeting

August 23, 1988

7 appeal considerations

Appeal hearing:

|      |                |                             |
|------|----------------|-----------------------------|
| 6:00 | 1580 Beach St. | J001-03A (accepted 7/26/88) |
|------|----------------|-----------------------------|

August 30, 1988

New Business: Discussion of proposed Rules changes

Appeal hearing:

|      |                       |                               |
|------|-----------------------|-------------------------------|
| 6:00 | 2730-2734 24th Street | I002-68A & I002-69A (accepted |
|------|-----------------------|-------------------------------|

X. Adjournment

Vice President Astle adjourned the meeting at 6:05 p.m.





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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
August 9, 1988  
\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 1040 Fell St. J001-08A
  - B. 1525 - 35th Ave. J001-09A
  - C. 5 Liberty St. J001-05R
  - D. 435 Dolores St. J001-04R
  - E. 730 Leavenworth St. #10 J001-06R
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Appeal Hearings
  - 6:00 A. 1290 Jackson St. I002-32R through I002-36R  
units 3, 7, 14, 15 & 16 (accepted 7/12/88)
  - 6:30 B. 1156-B So. Van Ness Ave. J001-04A (accepted 7/26/88)
- XII. Calendar Items
- XIII. Adjournment

1484A







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 9,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
McGoldrick; Stephenson; Villa.  
Commissioners not Present: Soulis.  
Staff Present: O'Hearn; Ruiz.

Commissioners Lipski and Marshall appeared on the record at 5:32 and  
5:33 p.m., respectively. Commissioner How left at 6:05 p.m. and  
Commissioner Stephenson left at 9:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 2, 1988 as written.  
(How/Astle: 5-0)

IV. Consideration of Appeals

A. 1040 Fell St. #1 J001-08A

The tenant filed a petition claiming a substantial decrease in services  
without a corresponding decrease in rent. The hearing officer granted  
a rent reduction of \$50.00 per month commencing January 1, 1988 and  
continuing until ceiling leaks in the bathroom were remedied. On  
appeal, the landlord argues that the hearing officer's determination is  
not supported by the testimony at the hearing.

MSF: To remand the case to reconsider the amount of the rent  
reduction. (How/Carrico: 2-3; Astle, Marshall and  
McGoldrick dissenting.)

MSC: To deny the appeal. (Marshall/Astle: 3-2; How and  
Carrico dissenting.)

B. 1535 35th Avenue J001-09A

The tenant filed a petition alleging illegal rent increases. The  
tenant moved in on January 24, 1987. In November 1987 one of the  
co-tenants moved out and the tenant sought another co-tenant. On  
November 2, 1987, the landlord gave the new tenant a \$25.00 rent  
increase and on March 26, 1988, the landlord gave the remaining tenant  
a \$21.00 rent increase. The hearing officer found both rent increases



null and void because they were excessive and imposed prior to the tenant's anniversary date. On appeal, the landlord objects to the hearing officer's determination because upon giving notice to vacate, the tenants did not pay a their last month's rent on the garbage and water bills.

MSC: To deny the appeal, but to inform the landlord to offset any rent reduction owed against any rent owed by the tenants. (Marshall/Astle: 5-0)

C. 5 Liberty Street

J001-05R

The tenant appeals the hearing officer's decision on the landlord's petition granting a capital improvements passthrough of \$443.54 per month. The landlord objects to the lateness of the appeal submitted by the tenants. Certain capital improvements were not certified because they were properly objected to by the tenants. On appeal, the tenant objects to the passthrough because he was not given the right to reoccupy the premises and the landlord has subsequently re-rented in contravention of Ordinance Section 37.9(a)(11) and thus cannot collect the passthrough. The tenant also maintains that the hearing officer erred in finding that there were no improper rent increases and did not properly consider arguments of deferred maintenance.

MSC: To deny the appeal. (How/Astle: 5-0)

D. 435 Dolores Street

J001-04R

The hearing officer determined this matter under Ordinance Section 37.3(c), which regulates the amount of rent a master tenant can charge a sub-tenant. The sub-tenant filed a petition for arbitration alleging an unlawful initial rent increase imposed by the master tenant. For 12 years the master tenant rented a flat from the owner. After vacating the unit, the master tenant rented it to the sub-tenant for \$790.00; the owner's charge to the master tenant was \$460.00. The hearing officer determined rent overcharges to the subtenant of \$2,187.00 from November 1987 through July 1988. On appeal, the master tenant alleges that she was not notified of the hearing and that the decision was based on incomplete evidence.

MSC: To accept the appeal and remand the case for further hearing before the hearing officer. (Marshall/Astle: 5-0)

E. 730 Leavenworth St. #10

J001-06R

The landlord filed a petition to raise the rent above the allowable amount based on increased operating and maintenance expenses. The hearing officer granted the petition but limited the increase to less than 7% based on the disallowance of the debt service increase which had already resulted in a 7% operating and maintenance increase a year earlier. On appeal, the tenant alleges that the formula used for the distribution of these costs is inequitable and unfair to him since the increase for his unit is 60% greater than for the other units.



MSC: To remand the case to the hearing officer with instructions to reconsider the tax costs in the adjustment year which should have been incurred at the time of purchase during the comparison year.  
(Marshall/McGoldrick: 5-0)

V. Appeal Hearings

A. 1290 Jackson Street I002-32R through I002-36R  
#3, 7, 14, 15 & 16 (accepted 7/19/88)

The hearing on the tenants' appeals claiming hardship commenced at approximately 6:12 p.m. The landlord submitted a response on the date of the appeal hearing claiming his own hardship. He also requested a correction of the amount of the passthrough to reflect the costs for the common area work which was omitted by the Hearing Officer. Since that request previously had been forwarded to the hearing officer, staff informed the Commissioners that the hearing officer stated that such omission was intentional and was not a clerical or inadvertent error. Based on their denial of the landlord's appeal, the Commissioners declined to further consider the issue.

The Commissioners did agree that there was a numerical error concerning the passthrough for unit 1 which would result in a monthly increase of \$180.37, instead of \$141.93. During the appeal hearing, each of the tenants testified about their income and resources. At the conclusion at 7:05 p.m., the Commissioners heard the next appeal which had been scheduled at 6:30 p.m. before returning to this case and rendering their decision. During their discussion, the first motion below was withdrawn and replaced with separate motions concerning each unit.

MSW: To accept the figures determined by the Hearing Officer, but to limit the passthrough amount to 8% each year in addition to the annual increase until the full amount is paid. (Marshall/Astle)

MSC: To permit the passthrough (of \$212.48 per month) for unit 3 to be imposed over a 2-yr. period with half of the amount imposed this year commencing on the effective date of the notice of increase and half imposed next year. (Marshall/Astle: 5-0)

MSC: To limit the passthrough (of \$202.16 per month) for unit 7 to 20% of the rent the first year and 8% each subsequent year, in addition to the annual increase, until the entire passthrough has been assessed.  
(Marshall/Villa: 5-0)

MSC: To permit the passthrough (of \$175.51 per month) for unit 14 to be imposed over a 2-yr. period with half imposed this year and half imposed next year.  
(Marshall/Villa: 5-0)



- MSC: To permit the passthrough (of \$192.24 per month) for unit 15 to be imposed over a 2-yr. period with half imposed this year and half imposed next year.  
(Villa/Astle: 5-0)
- MSC: To limit the passthrough (of \$204.97 per month) for unit 16 to 10% of the rent the first year and 8% each subsequent year, in addition to the annual increase, until the entire passthrough has been assessed.  
(Marshall/McGoldrick: 4-1; Carrico dissenting.)
- MSC: Based upon the correction of the passthrough for unit 1, to permit the tenant a period of 2 weeks to claim hardship, if any, resulting from the increased amount of rent. (Astle/Villa: 5-0)

There was consensus among the Commissioners to spread out the cumulative amount of increases depending on the actual amounts owed retroactive to February 4, 1988 pursuant to notice given on the date of filing the petition.

B. 1156-B So. Van Ness Ave. J001-04A

The hearing commenced at approximately 7:15 p.m. Both parties were present with representatives and offered testimony and documents concerning whether 5 residential units, three of which clearly conform to residential requirements, still exist at this building which is owner-occupied. After concluding the hearing and discussing the case, the Board approved the following motion:

- MSC: To retain jurisdiction over this matter until Board receipt of official or more thorough documents showing that one or more of the non-conforming units has been permanently removed from future housing use.  
(Astle/Marshall: 5-0)

#### VI. Communications

The following communications were received by the Board:

A. A response to the tenant's letter replying to the landlord's response to the tenant's appeal for 5 Liberty Street above. (This document apparently had been delivered to the State Building and not previously received in the Board office.)

B. A response from the landlord for 1290 Jackson Street as noted above, in opposition to the tenants' appeals.

C. A request for a postponement of the Board appeal hearing for 1580 Beach Street #202, scheduled August 23, 1988 which was granted.

D. A request for a postponement of the Board consideration of appeals for 1770 Broadway, scheduled for August 23, 1988, which was granted.





VII. Director's Report

The Deputy Director reported her attendance at the Mayor's monthly meeting with department heads or representatives of city departments grouped by categories of department business, e.g. housing and economic development.

VIII. New Business

Commissioner Hammill passed on a request from Commissioner Melbostad of the Department of Permit Appeals for a letter to their Commissioners from the Rent Board concerning capital improvement passthrough provisions under the Rent Law.

IX. Calendar Items

August 16, 1988 - No Board meeting.

August 23, 1988

6 appeal considerations (1770 Broadway postponed to 9/13/88)  
4 eviction case summaries

August 30, 1988

6 appeal considerations

New Business: discussion of proposed Rules changes.

Appeal hearing: (accepted 7/12/88 & rescheduled from 8/2/88)

6:00 2730-2734 24th Street I003-68A & I002-69A

September 6, 1988

Appeal Hearing:

6:00 1580 Beach St. #202 (postponed from 8/23/88)  
J001-03 (accepted 7/26/88)

X. Adjournment

President Carrico adjourned the meeting at 10:10 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
August 23, 1988

7/7/86

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
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## AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS SECT.

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|    |                     |          |
|----|---------------------|----------|
| A. | 722 Mt. Vernon Ave. | J001-10A |
| B. | 620 Eddy St. #39    | J001-12A |
| C. | 495 - 27th Ave.     | J001-11A |
| D. | 416 Austin St.      | J001-12R |
| E. | 1927 - 22nd Ave.    | J001-14R |
| F. | 225-A Pierce St.    | J001-13R |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

## Report from Staff

|    |                          |                              |
|----|--------------------------|------------------------------|
| A. | 10 Godeus St.            | I005-07E                     |
| B. | 1416 Grant St. #1, 5, 19 | I005-01E, I005-19E, I005-25E |
| C. | 1044 Girard St.          | I004-68E                     |
| D. | 738 Treat St.            | I004-82E                     |
| E. | 2000 - 19th St.          | I004-51E                     |

- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 23,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:48 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;  
Lipski; Soulis; Stephenson; Villa.  
Commissioners not Present: Marshall; McGoldrick.  
Staff Present: Hernandez; Wicks.

III. Approval of the Minutes

MSC: To approve the Minutes of August 9, 1988, as written.  
(Astle/Hammill: 5-0)

IV. Consideration of Appeals

A. 722 Mt. Vernon Ave. J001-10A

The landlord appealed the hearing officer's determination granting a rent reduction when the landlord set up a business in the tenants' parking area and denied further use of the front and back yard and storage area. The landlord argued that the decision was in violation of an earlier court stipulation and in breach of the agreement between the parties for lease with an option to purchase.

MSF: To remand the case. (How/Carrico: 2-3; Astle,  
Hammill, and Stephenson dissenting)

MSC: To uphold the hearing officer and deny the appeal.  
(Astle/Stephenson: 3-2; Carrico and How dissenting)

B. 620 Eddy St. #39 J001-12A

The tenant petitioned for and was granted a rent decrease for trash in the hallways, broken stair bannisters, inadequate lighting, and similar problems. A rent increase was also disallowed until remedy of the deficiencies. The owners appealed, protesting that since they purchased the property in December 1987, they have taken care of these and other problems, so that the rent reductions and increase stay are given in error. Technical corrections were also requested.

MSC: To deny the appeal, but make technical corrections.  
When the landlord has completed all repairs, he may  
reinstate the rent reduction on a 30-day written  
notice. If the tenant believes repairs have not been  
made or are inadequate, the tenant may refile with the  
Board. (Astle/Stephenson: 5-0)



C. 495 - 27th Ave.

J001-11A

The petitioning tenants were granted rent reductions for conversion from steam heat, formerly provided by the owner, to individually operated electric heaters, for which costs the tenants are now responsible. On appeal the landlord argues that the heating conversion reduction should only be for the 13 hours per day mandated by the Housing Code, and that the \$30.00 per month reduction was arbitrary and without evidentiary basis. The landlord further appeals an order to return improper rent increases charged to one tenant by the previous owner.

MSC: To uphold the hearing officer and deny the appeal; to inform the landlord of baseline utilities charges.  
(Astle/How: 5-0)

D. 416 Austin St.

J001-12R

The appealing tenant protested the hearing officer's denial of rent reductions for a defective heating system--for failure to provide adequate documentation--and leaks--for failure to continue to notify the owner of problems after initial attempts to repair. Reductions were granted to correspond with the loss of laundry and garden use. On appeal the tenant maintains he now has sufficient documentation to substantiate his arguments, which he felt were not given adequate weight by the hearing officer.

MSC: To uphold the hearing officer and deny the appeal without prejudice to the tenant's filing another petition. (How/Hammill: 5-0)

E. 1927 - 22nd Ave.

J001-14R

The hearing officer's decision expressly failed to grant a claim for decrease in service for a malfunctioning refrigerator. Approximately two weeks after the appliance stopped functioning, the tenant notified the landlord of the problem. At the hearing the landlord agreed to make the repairs. The hearing officer stated that the landlord must be given an opportunity to repair the refrigerator, but a \$20 reduction would be allowed if repairs were not made within a specified time. On appeal the tenant protested that the hearing officer ignored the fact that he was without a refrigerator for approximately four months.

MSC: To uphold the hearing officer and deny the appeal without prejudice to refile. (Astle/How: 5-0)

F. 225-A Pierce St.

J001-13R

Several tenants prevailed in part on their petitions for failure to repair and decreases in service, based on unremedied problems resulting from major construction. The owner was unsuccessful in attempting to obtain banked increases for a tenant who had already paid them to the previous owner. On appeal this tenant maintained that, contrary to the decision, she had paid overcharged amounts and should be granted

1497A





reimbursement; she further protested the hearing officer's neglect to grant a rent reduction for conversion to individual unit heaters.

MSC: To accept the appeal and remand the case for technical correction or further hearing only on the issue of the tenant's actual overpayment of excessive increases.  
(Astle/How: 5-0)

V. Communications

The following items were received by the Commissioners:

A. Letters from the parties concerning the appeal cases on the agenda for 495 - 27th Ave., 722 Mt. Vernon, and 1927 - 22nd Ave.; as well as letters concerning 49 Conrad and 1129 Union St. #1;

B. Two newspaper articles regarding the vacancy control initiative and a court monetary award for wrongful eviction;

C. The appeal decision for 1290 Jackson [I002-32R through 36R], which was sent back to staff for modification.

D. A packet of proposed changes to the Rules and Regulations, submitted by Old St. Mary's Housing Committee and Tenderloin Housing Clinic.

VI. Remarks from the Public

Tom Flowers spoke to the Board concerning class action lawsuits filed by the Golden Gateway and Stonestown complexes. He asked that the Board encourage the City Attorney to sign a proposed stipulated agreement. The Commissioners agreed to put the matter on the agenda at the August 30, 1988 meeting and will request that the involved Deputy City Attorney appear to discuss the matter.

VII. Director's Report

A. Executive Director Ricardo Hernandez discussed the status of the proposed Maher and Britt Amendments.

B. Mr. Hernandez reported on the proposal, before the Board of Supervisors, to allow landlords to pass on water usage penalties. The usage appeal process was also discussed.

VIII. Consideration of Allegations of Wrongful Eviction

Report from Staff

A. 10 Godeus St.

I005-07E

The tenants reside in one part of an eight-room rooming house, also occupied by the owner. Following the tenants' protest of an improper rent increase and repeated harassment by the landlord, the tenants were served with an eviction notice for nuisance. The incidents cited were 1497A



judged to be too minor to constitute cause for eviction, and there was significant evidence to suggest that they had probably not occurred.

EVALUATION & RECOMMENDATION: The eviction attempt appears to be in retaliation for the tenants' protesting the excessive rent increase and other improper behavior by the owner. The Board is encouraged to write a strongly-worded letter to the owner and monitor the matter.

B. 1416 Grant St. #1, #5, #19 I005-10E, I005-19E & I005-25E

The landlord gave the tenants in this 31-unit building notice of temporary removal for capital improvements before securing the following: active contractor's bid, electrical and plumbing permits, financing, permits to add additional units. The tenants alleged that the landlord kept changing the number of units to be involved and further threatened to subdivide the apartments of the two tenants who prevailed at the Board of Permit Appeals on three of the landlord's permit applications. It was further alleged that the owner knew from the outset that the work would take five months and has, in fact, requested a five month extension of the current six month permit. Despite direct communication to the owner from the Eviction Unit and hearing officer, the landlord has not filed a Petition for Extension of Time.

EVALUATION & RECOMMENDATION: The landlord has not followed the proper procedure on several counts. The Board is advised to write a strongly-worded, cautionary letter to the landlord expressing concerns over the evictions and related procedures, as well as impressing on him the need to immediately file a Landlord's Petition for Extension of Time. The matter should be monitored and the eviction cases kept active.

C. 1044 Girard St.

I004-68E

Although represented by her attorney, the landlord did not appear at either of the two hearings and gave no excuse. The tenant was called by the previous, out-of-state landlord, informing her that the property had been sold. Two individuals approached the tenant numerous times in person and on the phone, representing themselves as the couple who had purchased the property and wished to move in. No written termination notice was given, and no proof of ownership was ever provided for the couple (who were later proven to be the owner's agents). Several of the unannounced visits were confrontational. When the tenant did not pay rent because she had no owner's name or address, she was given a three-day notice for an excessive amount. Over a three-month period the tenant repeatedly requested that the attorney tell her who the owner was, to whom she should pay the rent, and the standing of the couple attempting to evict her. The attorney ignored her requests for 3 months, gave several legally defective eviction notices, and proceeded with legal actions that had little or no basis in fact.

EVALUATION & RECOMMENDATION: At least the landlord's agents have acted improperly in several respects, and the eviction attempts have all been wrongful. The Board should write the landlord, expressing grave  
1497A



concerns about this eviction attempt, and informing her that unless the outstanding Unlawful Detainer action is dismissed with prejudice, the Board will consider intervention by the City Attorney. All agents with identifiable names and addresses should be sent strongly-worded, cautionary letters, as well. The case should be monitored and referral to the District Attorney considered.

D. 738 Treat Ave.

I004-82E

This matter will be postponed until September 6, 1988, when the landlord's appeal will be considered.

E. 2000 - 19th Street

I004-51E

The case is apparently proceeding to court, despite Rent Board caution against this step. The matter should be further investigated by the Board to see if additional action is needed; at least a letter to the landlord's attorney may be in order.

MSC: To accept all staff recommendations, including investigation of the court status of 2000 - 19th St., and to put 738 Treat St. over for review on September 6, 1988. (Astle/How: 5-0)

IX. Calendar Items

August 30, 1988

Executive Session: Flowers v. Rent Board and Farr v. Rent Board  
6 appeal considerations

New Business: discussion of proposed Rules changes  
3 eviction case summaries

Appeal Hearing:

6:00 2730 & 2734 - 24th Street I002-68A & I002-69A  
(post. from 8/2/88)

September 6, 1988

7 appeal considerations  
eviction case summaries

Appeal Hearing

6:00 1580 Beach Street J001-03A (post. from 8/23/88)

X. Adjournment

President Carrico adjourned the meeting at 7:14 p.m.



SEP 6 1988

Residential Rent Stabilization and  
Arbitration BoardSAN FRANCISCO  
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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 30,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; How; Lipski; Marshall;  
McGoldrick; Soulis; Stephenson;  
Villa.  
Commissioners not Present: Astle; Hammill.  
Staff Present: Hernandez; O'Hearn.

III. Executive Session

At 5:37 p.m. pursuant to Govt. Code Section 54956.9(a), the Board went into executive session to discuss pending litigation concerning Flowers v. Executive Director, S.F. Rent Board, Super. Court No. 819174 and Farr v. Executive Director, S.F. Rent Board, Super. Ct. No. 828386 (Court of Appeal Decision filed 11/18/87). At approximately 6:05 p.m., the Commissioners returned to their regular session and announced that they had given their instructions to Deputy City Attorney Thomas Owen.

IV. Approval of the Minutes

MSC: To approve the Minutes of August 23, 1988 as written.  
(Marshall/How: 5-0)

V. Consideration of Appeals

A. 638-A Clayton St. J001-13A

The landlord appeals the hearing officer's determination of rent overpayments commencing in 1984 based on annual increase calculations on a \$63.00 PG&E passthrough imposed in 1983 in addition to subsequent passthroughs, each included in the following annual increase calculations. The current owner who purchased the property in February 1987 complains that the prior owner had not indicated that any utility passthroughs were included in the rent.

MSF: To deny the appeal. (Marshall/McGoldrick: 2-3; How, Lipski and Carrico dissenting.)

MSC: To accept the appeal and schedule a hearing before the Board. (How/Lipski: 3-2; Marshall and McGoldrick dissenting.)



B. 75 Gough St. #17

J001-14A

The landlord appeals the hearing officer's determination of rent overpayments on the basis that the tenant listed on her petition the incorrect amount of rent paid beginning July 1983, the allowable rents did not include the proper PG&E passthrough in 1984 and 1985, and the \$75.00 rent increase for the tenant's son was not paid in July 1988 because the son moved out.

MSC: To remand the case to the hearing officer to determine any numerical corrections with a further hearing only if necessary, and to delete any interpretation of Municipal Code, Art. 1.2. Section 102(h).  
(Marshall/How: 5-0)

C. 155 Haight St. #301

J001-15R

Challenging the "allowance of rent increase," the tenant appealed the hearing officer's decision granting a capital improvement passthrough of \$88.47 per month.

MSC: To deny the appeal. (McGoldrick/How: 5-0)

D. 825 Filbert St. #A

J001-15A

The landlords appeal the hearing officer's decision granting the tenant's petition and determining rent overpayments based on excessive rent increases in 1982, 1985 and 1986. They claim inadequate representation because one of the landlords who appeared at the hearing also acted as translator for the other landlord, his mother, and was not aware of the background to the tenant's petition.

MSC: To deny the appeal. (Marshall/Lipski: 5-0)

E. 60 Central St. #6

J001-16A

The landlord appeals the hearing officer's decision granting monthly rent reductions to correspond with plumbing problems (\$40.00), a defective range and oven (\$25.00), the lack of garage access (\$45.00) and the lack of freezer door (\$3.00). The landlord, who is the administrator of the estate for the deceased owner, contends that the garage space is not connected to the tenant's use and occupancy of his unit and that the tenant did not provide sufficient notice concerning the problems, especially since after the court appointment of the administrator.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

F. 1010 Capp St.

J001-17A

The landlord contends that the hearing officer did not allow him or his witnesses the opportunity to testify. The tenant's representative disputed the landlord's contentions, but requested correction of numerical errors in the rent decrease calculations. The hearing



officer granted the tenant monthly rent reductions of \$100.00 due to raw sewage in the yard, \$15.00 for lack of garbage receptacles, \$10.00 for unhinged doors, and \$5.00 for each day that the porch leaked.

MSC: To deny the appeal, but have staff correct any clerical or numerical errors. (Marshall/Lipski: 5-0)

VI. Appeal Hearing

2730 & 2734 - 24th St.

I002-68A & I002-69A

On July 21, 1988 the Board voted to hear the landlord's appeal challenging the determination that he had not proven that he resides at this four residential unit property. He had not appeared at the hearing before the hearing officer and did not provide an excuse for his non-appearance. As a result, the proposed rent increases from \$256.50 to \$850.00 and \$300.00 to \$900.00 were found null and void, and rent reductions were granted to correspond with decreased housing services.

The appeal hearing commenced at approximately 7:00 p.m. Both landlords appeared, and the tenants appeared with their counsel, witnesses and interpreter. At the outset, the landlords requested a postponement of the hearing because their attorney was not able to appear at the hearing. The landlords stated that their attorney had called them at home at 11:00 p.m. on August 26th to inform them that he had broken his leg while in Sonoma, California. They did not know that he would continue to be unavailable for their appeal hearing.

Neither the attorney nor his associate had contacted the Rent Board or the tenants' attorney. Following some discussion, the Board agreed to continue the hearing for two weeks to the September 13th Board meeting.

VII. Director's Report

The Executive Director reported on a ballot proposition concerning parking activities in both residential and commercial buildings and areas. A consultant hired by the Board of Supervisors has been researching Rent Board records concerning parking spaces connected with the use and occupancy of a rental unit.

VIII. Remarks from the Public

A member of the public commended the idea of data gathering from Rent Board records.

IX. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 4066 - 19th St.

I005-18E

The Eviction Unit Supervisor recommended that the Board monitor this case where the owner seeks to occupy an "in-law" apartment

downstairs from the 2-bedroom house in which he presently resides as "caretaker." When the tenant failed to move out in June, instead choosing to contest the eviction, the owner cut off utilities and other housing services.

MSC: To adopt the recommendation of staff.  
(Marshall/Lipski: 5-0)

B. 167 - 21st Ave. #101 I003-82E

Staff requested deferral of action on this case pending the upcoming Board review of a request for reconsideration.

X. New Business

For discussion of proposed changes to the Rules and Regulations, the Commissioners previously agreed to propose various ideas for subsequent formulation into priorities and other categories. Memos were distributed concerning eviction regulations from the Eviction Unit Supervisor dated August 30, 1988 and concerning subtenant situations from the Rent Unit Supervisor dated September 15, 1987 when Ordinance Section 37.3(c) became effective. Commissioner Marshall also distributed a list of possible proposals.

There was consensus to continue the formulation of various ideas in order to determine which would be considered. Further, a time line will be established for deciding on proposals for later public hearing.

X. Calendar Items

September 6, 1988

7 appeal considerations  
1 eviction case summary  
Old Business: Rules and Regulations

Appeal Hearing:

6:00 1580 Beach Street J001-03A (post. from 8/23/88)

September 13, 1988

Executive Session: Padilla v. Rent Board (Super. Ct. 886887)  
3 appeal considerations (including 1770 Broadway)  
eviction summaries  
Old Business: Rules and Regulations

Appeal Hearing:

I002-68A & I002-69A  
2730 & 2734 - 24th St. (cont. from 8/30)

September 20, 1988

appeal considerations  
request for reconsideration of eviction: 167 - 21st Ave.

Appeal Hearing:

638-A Clayton St. J001-13A (accepted 8/30/88)

XI. Adjournment

President Carrico adjourned the meeting at 8:10 p.m.

officer granted the tenant monthly rent reductions of \$100.00 due to raw sewage in the yard, \$15.00 for lack of garbage receptacles, \$10.00 for unhinged doors, and \$5.00 for each day that the porch leaked.

MSC: To deny the appeal, but have staff correct any clerical or numerical errors. (Marshall/Lipski: 5-0)

DOCUMENTS DEPT.

VI. Appeal Hearing

SEP 7 1988

2730 & 2734 - 24th St.

I002-68A & I002-69A

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On July 21, 1988 the Board voted to hear the landlord's appeal challenging the determination that the he had not proven that he resides at this four residential unit property. He had not appeared at the hearing before the hearing officer and did not provide an excuse for his non-appearance. As a result, the proposed rent increases from \$256.50 to \$850.00 and \$300.00 to \$900.00 were found null and void, and rent reductions were granted to correspond with decreased housing services.

The appeal hearing commenced at approximately 7:00 p.m. Both landlords appeared, and the tenants appeared with their counsel, witnesses and interpreter. At the outset, the landlords requested a postponement of the hearing because their attorney was not able to appear at the hearing. The landlords stated that their attorney had called them at home at 11:00 p.m. on August 26th to inform them that he had broken his leg while in Sonoma, California. They did not know that he would continue to be unavailable for their appeal hearing.

Neither the attorney nor his associate had contacted the Rent Board or the tenants' attorney. Following some discussion, the Board agreed to continue the hearing for two weeks to the September 13th Board meeting.

VII. Director's Report

The Executive Director reported on a proposed parking tax increase on paid public offstreet parking. A consultant who will be reporting to the Board of Supervisors has been researching Rent Board records concerning rental units with parking spaces rented to non-tenants.

VIII. Remarks from the Public

A member of the public commended the idea of data gathering from Rent Board records.

IX. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 4066 - 19th St.

I005-18E

The Eviction Unit Supervisor recommended that the Board monitor this case where the owner seeks to occupy an "in-law" apartment 1504A





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 6, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

SEP 6 1988

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- |    |  |                           |
|----|--|---------------------------|
| A. | 625 Haight St.                                 | J001-18A                  |
| B. | 1541 Sanchez St.                               | J001-19A                  |
| C. | 1097 York St. #3                               | J001-20A                  |
| D. | 2240 Northpoint St.<br>units 4, 9, 10, 11 & 12 | J001-16R through J001-20R |
| E. | 205 - 2nd Ave.                                 | J001-21A                  |
| F. | 738 Treat St.                                  | J001-22A                  |
| G. | 350 Staples Ave.                               | J001-23A                  |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

- |    |                  |                               |
|----|------------------|-------------------------------|
| A. | 411 Green St. #2 | I005-12E                      |
| B. | 738 Treat Ave.   | I004-68E (post. from 8/23/88) |

- IX. Old Business
- Discussion of Proposed Rule Changes

- X. New Business

- XI. Appeal Hearing

|      |                     |                             |
|------|---------------------|-----------------------------|
| 6:00 | 1580 Beach St. #202 | J001-03A (accepted 7/26/88) |
|------|---------------------|-----------------------------|

- XII. Calendar Items

- XIII. Adjournment

1503A





SEP 12 1988

SAN FRANCISCO  
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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday September 6,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski;  
Marshall; Soulis; Villa.  
Commissioners not Present: McGoldrick; Stephenson.  
Staff Present: Hernandez; Wolf.

Commissioner How appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 30, 1988 as written.  
(Astle/Hammill: 5-0)

IV. Consideration of Appeals

A. 625 Haight St. J001-18A

Due to a fire in an adjacent building, the tenants' unit suffered substantial damage. Accordingly, the hearing officer granted a 65% rent reduction to correspond with the lost or reduced housing services. The landlord appeals the amount as excessive; disputes the necessity of 30-day notice being issued prior to restoration of the base rent figure; requests that the amount of reduction be subject to modification as the repairs proceed; and alleges anti-landlord bias on the part of the hearing officer.

MSC: To remand this case to the same hearing officer to designate specific amounts for the various decreased services so that rent reductions can be terminated as repairs are completed. (Astle/Marshall: 5-0)

B. 1541 Sanchez St. J001-19A

The tenants in this case were granted a retroactive rent reduction due to the loss of use of a deck. On appeal, the landlord alleges that the petitioners are illegal sub-tenants unapproved by the landlord, as the master tenant has vacated the premises. The landlord is proceeding with an eviction on this basis, which is currently being investigated by the Eviction Unit.

MSC: To remand this case to the same hearing officer for a new hearing and findings on the value of the deck. (Astle/How: 5-0.)

C. 1097 York St. #3 J001-20A

The landlord appeals the hearing officer's decision granting rent reductions due to the removal of garage space and the presence of gaping holes in the walls. On appeal, the landlord maintains that the tenant perjured himself, as he never had use of the garage space.

MSC: To deny the appeal. (Marshall/Astle: 4-1; Carrico dissenting.)

D. 2240 Northpoint St. J001-16R through J001-20R  
Units 4, 9, 10, 11, and 12

Tenants of five units appeal the hearing officer's certification of capital improvement pass-throughs as being an abuse of discretion and in violation of public policy. They allege that: new windows were not common area improvements, and were not necessary for reasons of health or safety; new carpet was necessitated by the landlord's deferred maintenance; the roof did not need replacement; and the landlord made no attempt to repair the floor prior to replacing it.

MSC: To remand this case to the same hearing officer to consider the windows as improvements to individual units and allocate their cost accordingly; and consider appropriate defenses, if any. (Marshall/Astle: 5-0.)

E. 205 - 2nd Ave. J001-21A

Six previous rent increases for capital improvements and increased operating expenses have been granted to the landlords for this property. In the instant case, an operating expense increase was granted by the hearing officer, but in an amount less than than petitioned for as refinancing was not proven to have been reinvested in capital improvements. The landlords appeal on the grounds that: as the debt service more than doubled, it should be an allowable expense once again; the hearing officer erred regarding the effective dates of increases for two units; and the Board went beyond its scope in correcting base rents mistakenly set in a previous decision, as the decision had not been appealed and was therefore final.

It was the consensus of the Board to continue this case until the September 20th meeting in order to receive input from the Deputy Director.

F. 738 Treat St. J001-22A

The landlord appeals the hearing officer's decision granting a rent reduction due to dangerous back stairs and finding a wrongful eviction attempt, which is discussed below under Consideration of Allegations of Wrongful Evictions. The landlord alleges that the hearing officer was biased and discriminated against him.



MSC: To deny the appeal. (Marshall/Hammill: 5-0.)

G. 350 Staples Ave.

J001-23A

When the tenants moved into this two-bedroom house, there was no downstairs unit. Subsequently, the landlord constructed an illegal in-law unit for the occupancy of his son, who has a history of mental problems. As a result of the ensuing loss of quiet enjoyment of the premises, the hearing officer granted a retroactive rent reduction. On appeal, the landlord maintains that the downstairs unit was vacant for several of the months in question.

MSC: To remand this case for another hearing to determine the proper date for commencement of the rent reduction. (Astle/How: 5-0.)

#### V. Communications

The Commissioners received the following communications:

- A. Monthly workload statistics for June and July 1988.
- B. Several letters regarding tonight's cases on appeal.
- C. The appeal decision for the case at 1156 South Van Ness Ave. (J002-84A), which will be revised by staff.

#### VI. Appeal Hearing

1580 Beach St. #202

J001-03A (accepted 07/26/88)

On July 27, 1988, the Board voted to hear the landlord's appeal challenging overcharges resulting from rent increases imposed by the previous owner. Because the tenant was out of state for some time, the landlord had delayed the annual increase for five months until the tenant's return in March. He then gave the next increase in November, as had been done in the past. An additional \$100 was assessed when the tenant married, and later \$25 was agreed to for the addition of storage space. The Hearing Officer rendered several increases null and void because they were excessive and imposed less than 12 months apart; he further found that a new anniversary date had been established when rent was increased for the storage space. On appeal, the current owner objected to both the anniversary date changes and voiding of increases for the additional tenant.

The appeal hearing was originally scheduled for August 23, 1988, and was postponed at the tenant's request. As the family emergency that necessitated that request is continuing, the tenant requested further postponement of the appeal hearing to after October 17, 1988. Following some discussion, the Board agreed to continue the hearing to the October 18th Board meeting.

#### VII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 411 Green St. #3

I005-12E

The Eviction Unit Supervisor recommended that the Board monitor this case and consider intervention should the landlord pursue a UD. This case revolves around interpretation of the Board's "DeWolf" decision regarding rental increases in the event of replacement roommates. In this case, the roommate is a subtenant of the original tenant, and not a tenant of the landlord's. However, the Rent Ordinance specifically defines "tenant" to include "subtenancy approved by the landlord." It is clear that the roommate in this case had been approved several times by the landlord, both orally and in writing, and is therefore not an unauthorized subtenant. Therefore, no just cause for eviction can be predicated on this issue, and the roommate is entitled to the eviction protections afforded by the Ordinance.

B. 738 Treat Ave.

I004-82E (orig. scheduled 08/23)

The landlords attempted to evict these tenants due to the presence of an "unauthorized" dog, which had previously been approved, after the tenants had made repair requests. As the tenants have vacated the unit and retained counsel, the Eviction Unit Supervisor recommended that the landlords receive a strongly-worded letter advising against future eviction attempts of this type.

MSC: To adopt staff recommendations regarding both of the above cases. (Marshall/Astle: 5-0.)

## VII. Old Business

The Board continued to accept and distribute draft proposed changes to the Rules and Regulations. Commissioner Astle volunteered to break down the subject areas into categories for discussion and possible recommendations by working committees comprised of a few Commissioners. It was agreed that proposals will be solicited and received from interested parties for the next few weeks, and the next discussion of proposed changes will take place at the Board meeting of September 20th.

## IX. Calendar Items

### September 13, 1988

Executive Session: Padilla v. Rent Board (Super. Ct. 886887)  
3 appeal considerations (including 1770 Broadway)  
Eviction summaries

6:00 Appeal Hearing: J002-68A & J002-69A  
2730 & 2734 - 24th St. (cont. from 08/30)

### September 20, 1988

4 appeal considerations (one cont. from 09/06)  
Eviction reconsideration request and summary

6:00 Appeal Hearing:  
638A Clayton St. J001-13A (accepted 08/30)  
Old Business: Rules and Regulations

X. Adjournment

President Carrico adjourned the meeting at 6:55 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,

September 13, 1988

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

SEP 12 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Executive Session [Govt. Code Section 54956.9(a)]  
Padilla v. Rent Board, Super. Court No. 886887
- IV. Approval of the Minutes
- V. Consideration of Appeals
  - A. 1770 Broadway St. #605, 401, 606, 402, & 502  
J001-07R through J001-11R (postponed from 08/23)
  - B. 780 Guerrero St. J001-21R
  - C. 184 Funston Ave. J001-26A
- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions
- X. Old Business
- XI. New Business
- XII. Appeal Hearing
  - 6:00 2730 & 2734 - 24th St. J001-68A & I002-69A  
(cont. from 08/30)
- XIII. Calendar Items
- XIV. Adjournment

1507A





SF  
R52  
#2 9/13/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 13,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DOCUMENTS DEPT.

I. Call to Order

SEP 16 1988

SAN FRANCISCO  
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President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle, Carrico, How, Marshall,  
McGoldrick, Soulis, Stephenson  
Commissioners not Present: Hammill, Villa  
Staff Present: Hernandez, Wicks

Commissioner Lipski appeared on the record at 5:36 p.m.

III. Executive Session

The Board went into Executive Session at 5:37 p.m., pursuant to  
Government Code Section 54956.9(a), to discuss the Judgment Granting  
Preemptory Writ of Mandate in Padilla v. Rent Board, Superior Court No.  
886887. After discussing the matter, the Board returned from Executive  
Session at 5:54 p.m. and made the following motion:

MSC: To vacate the hearing officer's decision and hold a new  
hearing on the matter on September 28, 1988 and October  
5, 1988, in accordance with Superior Court Writ No.  
886887. (Marshall/Astle: 5-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of September 6, 1988, as written.  
(Astle/Marshall: 5-0)

V. Consideration of Appeals

A. 1770 Broadway St., #605, 401, 606, 402, & 502  
J001-07R through J001-11R (postponed from 8/23/88)

The landlord had filed a petition for increases in operating and  
maintenance, and the tenants had petitioned for decreases in service  
and failure to repair. On appeal the tenants argued that the operating  
and maintenance increase was improperly allowed in that the comparison  
and adjustment periods chosen benefited the landlord improperly, and  
the hearing officer did not allow tenant cross-examination on the  
issue. Further they protested disallowance of a rent rebate for change  
in location of the laundry room (for all but disabled tenants);  
change in location of the garbage collection area; and failure to make



the back yard into a recreational area. The tenants further protested--and the landlords agreed--that the hearing officer had erred in not setting the anniversary date for the tenants at October 1, 1988, as per stipulation by all parties.

MSC: To deny the appeal with a technical correction to reflect the proper anniversary date of October 1.  
(Astle/Carrico: 5-0)

B. 780 Guerrero

J001-21R

One tenant appealed the hearing officer's certification of capital improvement increases. He protested that the previous landlord had promised to make needed repairs in the tenant's bathroom but had not done so. The current landlord repaired these problems and did further extensive repairs and improvements that the tenant alleged were not necessary and for which he cannot pay, since he is disabled.

MSF: To accept the appeal at the Board level on the issues of hardship and tenant objection to the improvements.  
(Marshall/McGoldrick: 1-4; Commissioners Astle, Carrico, How, and McGoldrick dissenting)

MSC: To accept the appeal at the Board level on the issue of tenant hardship, only. (Astle/How: 5-0)

C. 184 Funston Ave.

J001-26A

The landlord appealed disallowance of an operating and maintenance increase, which was denied. The landlord had been allowed a similar increase the previous year. The hearing officer found that in the second petition the landlord did not use the same figures as those certified in the first petition; that tax assessments were claimed for the year in which they were incurred, not paid; and that other expenses were adjusted downward based on the owner's submitted figures. On appeal the landlord challenged the hearing officer's conclusions.

MSC: To excuse Commissioner Stephenson from consideration of this matter. (Marshall/Astle: 5-0)

MSC: To remand the case for technical corrections so that the decision includes and incorporates Schedule B from the previous decision and a revised Schedule B for the subject case. (Marshall/McGoldrick: 5-0)

## VII. Appeal Hearing

2730 & 2734-24th Street

J001-68A & I002-69A  
(contd. from 8/30/88)

This matter was accepted by the Board on July 12, 1988, and originally scheduled for August 2, 1988. On July 25, 1988, the tenants' attorney



wrote the Board requesting a continuance in order to obtain additional evidence; the matter was accordingly put over to August 30, 1988. On that date the appeal hearing commenced at approximately 7:00 p.m. Both the owner and his manager appeared, and the tenants appeared with their counsel, witnesses, and interpreter. At the outset, the landlord requested a postponement of the hearing because his attorney was not able to appear. The Rent Board had not been previously informed of the attorney's unavailability. After discussion, the Board agreed to continue the hearing to September 13, 1988.

At the continued hearing, the issue to be addressed was whether or not the property was exempt from the jurisdiction of the Ordinance because of owner occupancy. The owner, manager, and witnesses for the owner testified that the owner resided in 2734 - 24th Street, Apt. A with the manager, who is his fiancée. The owner further testified that he has lived in that unit since May 31, 1988. In rebuttal, the four subject tenants testified that the landlord did not move into the property in May 1987 and still does not live on the premises but is only in the building to run his commercial unit on the ground floor. The tenants did agree that the manager lives on the premises but disputed the date she testified was the one on which her occupancy commenced. The owner presented the Board copies of various letters addressed to him and others to his fiancée at the address at issue; they were dated within the last three or four months. The landlord presented a California drivers license dated May 26, 1988, with his residence listed as 2734-24th Street, #A.

After discussion of the case, the Commissioners voted as follows:

MSC: To find that the Rent Board has jurisdiction over this matter, based on the landlord's failure to meet his burden of proof. (Marshall/McGoldrick: 5-0)

It was the consensus of the Board that the Eviction Unit Supervisor should investigate the current status of the Unlawful Detainer actions previously filed against the tenants, to determine if the cases should be referred to the District Attorney for investigation.

#### VIII. Communications

The Commissioners received a letter from a tenant in case I009-33T, 117 States Street.

#### IX. New Business

Commissioner Marshall mentioned a memo from ArtHouse, concerning artists' expressed concerns about possible exemption from the jurisdiction of the Rent Board. She asked that this topic be placed on a subsequent agenda.

p. 4 of the Minutes of September 13, 1988

X. Calendar Items

September 20, 1988

4 appeal considerations

Old Business: A. Rules & Regulations Changes

B. Artists' Live/Work Issues

6:00 Appeal Hearing: 638-A Clayton J001-13A (accpt. 8/30/88)  
3 eviction Staff Summaries and 1 Eviction Reconsideration

September 27, 1988

5 appeal considerations

XI. Adjournment

President Carrico Adjourned the meeting at 8:23 p.m.

SF  
R52  
#1

9/20/88

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday,  
September 20, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DOCUMENTS DEPT.

## AGENDA

SEP 16 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- |    |                    |                                     |
|----|--------------------|-------------------------------------|
| A. | 333 Webster St. #6 | J001-25A                            |
| B. | 25 Capra Way #101  | J001-22R                            |
| C. | 1044 Girard        | J001-24A                            |
| D. | 205 2nd Ave.       | J001-21A (continued from<br>9/6/88) |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- |   |                      |                       |
|---|----------------------|-----------------------|
| A. Report from Staff                            |                      |                       |
| 1.  | 737 Greenwich        | I005-38E              |
| 2.  | 1701 17th Ave.       | I003-60E              |
| B. Request for Reconsideration and Staff Report |                      |                       |
|   | 167 21st Avenue #101 | J001-29A and I003-82E |
- IX. Old Business
- |    |                               |
|----|-------------------------------|
| A. | Rules and Regulations changes |
| B. | Artist live/work issues       |
- X. New Business
- XI. Appeal Hearing
- |      |                  |                           |
|------|------------------|---------------------------|
| 6:00 | 638A Clayton St. | J001-13A (accept 8/30/88) |
|------|------------------|---------------------------|
- XII. Calendar Items
- XIII. Adjournment
- 1512A





SF  
R52  
#2 9/20/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 20,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DOCUMENTS DEPT

I. Call to Order

SEP 26 1988

President Carrico called the meeting to order at 5:36 p.m. SAN FRANCISCO  
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski;  
Stephenson; Villa.  
Commissioners not Present: How; Marshall; McGoldrick; Soulis.  
Staff Present: Hernandez; O'Hearn.

Commissioner Astle left the meeting at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 13, 1988 as  
written. (Astle/Stephenson: 5-0)

IV. Consideration of Appeals

A. 333 Webster St. #6 J001-25A

The landlords appeal the hearing officer's decision granting a rent reduction of \$50.00 per month to correspond with the tenant's loss of the apartment balcony. The landlords, who did not appear at the hearing, states on appeal that neither of them received notice of the hearing which was mailed to only one of the landlords who was out of the country at that time. Further, they contest many of the hearing officer's findings.

MSC: To accept the appeal and remand the case to the hearing officer for another hearing. (Astle/Villa: 4-1; Hammill dissenting.)

B. 25 Capra Way #101 J001-22R

One of the tenants appeals the hearing officer's decision granting capital improvement increases for 13 rental units. The tenant contends that the cost of installing a solar water heating system should have been reduced by 90% to account for both state (50%) and federal (40%) tax credits, instead of 40%, which is the amount deducted by the hearing officer.

Further response and documentation received at the Board office on September 9, 1988 was erroneously forwarded to the hearing officer and not included with the appeal material forwarded to the Commissioners.

Therefore, it was the consensus of the Board to continue this matter for one or two weeks for receipt of the documentation, as well as a response from the Hearing Officer.

C. 1044 Girard St.

J001-24A

Although the landlord did not appear at the hearing, the landlord's attorney appeared on the landlord's behalf. While the landlord does not dispute that "there are some problems with the condition of the premises," she disagrees with the percentage amounts of the rent reductions, totaling 82.5%, granted by the hearing officer to correspond with the loss of necessary housing services. As an example, the landlord notes that although the floor is starting to deteriorate, it is still sound and functional.

MSC: To deny the appeal. (Astle/Stephenson: 4-1; Carrico dissenting.)

D. 205 - 2nd Avenue #2 & #4 J001-21A

The Board continued its consideration of this appeal from its meeting on September 6, 1988 in order to receive input from the Deputy Director. The issue primarily concerns the numerical corrections in a prior decision determining the new rent.

MSC: To deny the appeal, but to clarify that the corrections of the base rents in the prior decision (H001-57L) are prospective only, and to correct the effective date of the current increase to July 1, 1988 for unit #2.  
(Astle/Stephenson: 5-0)

V. Communications

A. The Board received a letter from Old St. Mary's Housing Committee expressing gratitude for the Board's willingness to entertain changes to the Rules and Regulations and requesting public hearing at the earliest possible date.

B. The Board received the tenant's response to the landlord's appeal concerning 1044 Girard St. above.

C. The Deputy Director submitted a letter from the attorney for the tenant appellants of 1290 Jackson Street (heard and decided on August 9, 1988) requesting clarification of the Board's decision. The Commissioners agreed that the capital improvement increases to be imposed after the current year for units 7 and 16 are computed by a percentage of the base rent, rather than the total rent.

D. The Executive Director submitted a letter dated September 16, 1988 from the Clerk of the Board of Supervisors with the corrected (8/19/88) draft of proposed amendments to the Rent Ordinance to limit rents charged for units vacated by eviction for certain reasons.



VI. Appeal Hearing

638-A Clayton St.

J001-13A

The Board accepted the landlord's appeal on August 30, 1988. Rent overpayments commencing in 1984 were the result of annual increase calculations on a \$63.00 PG&E passthrough imposed in 1983 in addition to adding subsequent passthroughs, each included in the following annual increase calculations. The current owner complains that the prior owner had not indicated that any utility passthroughs were included in the rent.

The hearing began at approximately 7:20 p.m. A representative for the management company appeared on behalf of the landlord and both tenants represented themselves. When the hearing concluded, the Commissioners discussed the case. After the first motion below failed, they approved the second motion.

MSF: To affirm the Decision of the Hearing Officer.  
(Stephenson/Hammill: 2-3; Lipski, Villa and Carrico dissenting.)

MSC: To (1) modify the Hearing Officer's decision such as to limit the current owner's liability for rent overpayments collected since his purchase in 1987, (2) affirm the current base rent determined by the Hearing Officer and (3) direct staff to send a letter to the former owners informing them of the decision and their liability for prior rent overpayments. (Lipski/Villa: 3-2; Hammill and Stephenson dissenting.)

VII. Director's Report

A. The Executive Director informed the Board that he would be speaking to Continental Realty on September 22, 1988.

B. Proposed amendments to the Rent Ordinance, both to limit rents charged for units vacated by eviction for certain reasons and to provide for a water penalty passthrough, are scheduled for consideration by the Board of Supervisors' Land Use Committee at its meeting on Tuesday, September 27, 1988 at 9:00 a.m.

C. The Executive Director will be interviewed on Thursday, September 22, 1988 for a program on Channel 6 concerning water penalties.

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 737 Greenwich St.

I005-38E

This case concerns a temporary eviction for the landlord to replace the seriously deteriorated exterior stairs, the only front means of entry  
1515A

into the building. Staff proposes to have the Eviction Unit communicate with the tenants' attorney to make sure the matter is actually settled. If there appear to be further problems, the Board may wish to write the landlord a cautionary letter.

2. 1701 - 17th Ave. I003-60E

The tenant initially vacated after a fire in November 1987 caused damage to her apartment. About a month later the tenant found notices taped to her door, telling her to remove all her belongs within two days and permanently vacate within three days. After the landlord's receipt of Rent Board investigatory materials suggesting defective notice, an amended notice was given in January 1988, citing storage of combustible materials in dangerously close proximity to the furnace and/or water heater as the reason for the fire and resulting damage. This notice is the basis of a court eviction action against the tenant.

On May 7, 1988 the tenant was notified she could reoccupy and moved back into her apartment. Staff recommends monitoring the eviction action and, if the landlord has not yet proceeded to trial, writing the landlord a strongly worded letter pointing out the problems with both the basis and procedures in the eviction attempt.

MSC: To adopt staff recommendations in both of the above cases. (Villa/Hammill: 5-0)

B. Request for Reconsideration and Report from Staff

167 - 21st Avenue #101 J001-29A & I003-82E

The hearing officer originally recommended that there was no wrongful eviction because the landlord had medical reasons for needing a bottom floor unit like the tenant's. Pursuant to the tenant's request for reconsideration (No. I002-28R), on June 21, 1988 the Board remanded the case for further hearing before the hearing officer.

On remand the hearing officer recommended that there was a wrongful eviction because the landlord has not met her burden of proving that the other unit currently available in the building is not comparable within the meaning of the Rent Ordinance. The landlord now requests reconsideration of remand recommendation so that she may prove her medical condition and other reasons for seeking to occupy the tenant's downstairs unit.

Staff believes that regardless of any valid reason the landlord has for the eviction, she has not acted totally in good faith since she is demanding a \$200 rent increase for the tenant to move into the comparable unit. Staff recommends that the Board write a letter encouraging the landlord to make a serious effort at resolving this matter through mutually agreeable settlement, and that the Board consider further action if the matter is not so resolved.

MSC: To adopt staff's recommendation. (Lipski/Villa: 5-0)  
1515A



MSC: To deny the landlord's request for further reconsideration. (Stephenson/Lipski: 5-0)

IX. Old Business

A. Possible consideration of Rules and Regulations changes

The Board also received from Commissioner Astle a proposed list of categories for possible changes, as well as memos from both the Rent Unit and Eviction Unit Supervisors.

The Commissioners added other categories and will assign each of them at the next Board meeting to the Commissioners for designated committees. More extensive discussion will be scheduled for the October 4, 1988 meeting.

B. Live/work tenants

The Board received a memo (to Barbara O'Hearn, Polly Marshall and Jim Morales) from Margie O'Driscoll of Arthouse regarding the applicability of the Rent Ordinance to live/work tenants based on the recent passage of city-wide legislation. A separate memo (to Dean Macris, Larry Lichfield and Ricardo Hernandez) states that Arthouse received a grant to print guidelines answering the most commonly asked questions and requests Rent Board review of the draft, especially concerning rent control coverage of those rental units.

X. Calendar Items

September 27, 1988

6 appeal considerations (including 1 continued from 9/20)

Old Business: A. Rules & Regulations Changes

B. Live/Work legislation

6:00 Appeal Hearing: 780 Guerrero St. J001-21A (accepted 9/13)

October 4, 1988

5 appeal considerations

Old Business: A. Rules & Regulations Changes

B. Live/Work legislation

1 eviction reconsideration, plus reports from staff

XI. Adjournment

President Carrico Adjourned the meeting at 8:00 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

September 27, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

SEP 26 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- |                       |                               |
|-----------------------|-------------------------------|
| A. 25 Capra Way #101  | J001-22R (cont. from 9/20/88) |
| B. 50-A Pearl St.     | J001-23R                      |
| C. 622-A Natoma St.   | J001-24R                      |
| D. 679 Clementina St. | J001-25R                      |
| E. 814 California St. | J001-28A                      |
| F. 340 Hayes St. #502 | J001-26R                      |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff  
2724 & 2730 - 24th St.

I003-63E & I004-65E

- IX. Old Business
  - A. Rules and Regulations changes
  - B. Tenant live/work legislation

- X. New Business

- XI. Appeal Hearing

6:00 780 Guerrero St. #5 J001-21R (accepted 9/13/88)

- XII. Calendar Items

- XIII. Adjournment

1516A



SEP 27 1988  
SAN FRANCISCO  
PUBLIC LIBRARY

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 27,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Vice-President Astle called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;  
Marshall; Soulis; Stephenson;  
Villa.

Commissioners not Present: Carrico.

Staff Present: Hernandez; Wolf.

Commissioner McGoldrick appeared on the record at 5:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 20, 1988 as  
written. (Hammill/Marshall: 5-0)

IV. Consideration of Appeals

A. 25 Capra Way #101 J001-22R (cont. from 9/20/88)

One of the tenants appeals the hearing officer's decision granting capital improvement increases for 13 rental units. The tenant contends that the cost of installing a solar water heating system should have been reduced by 90% to account for both State (50%) and Federal (40%) tax credits, instead of 40%, which is the amount deducted by the hearing officer.

MSC: To remand to the same hearing officer for a technical correction or hearing, if necessary, on the issue of the tax credits received by the landlord.  
(Marshall/Soulis: 5-0)

B. 50A Pearl St. J001-23R

The tenants appeal the hearing officer's decision granting an increase based on increased operating expenses. The tenants maintain that the allowable increase on this basis should be 3% and not 7% and that the landlord's debt service charges are impermissible.

MSC: To deny the appeal. (Marshall/How: 5-0)

C. 622A Natoma Street

J001-24R

One tenant appeals the hearing officer's decision finding that the building is exempt from Rent Board jurisdiction as it contains four units and is owner-occupied. The tenant claims that the landlord lives in a fifth, basement unit and that a previous Unlawful Detainer action had been dropped on the basis that the landlord no longer needed the tenant's unit as he was living in the basement.

MSC: To accept the appeal and schedule a hearing before the Board. (How/McGoldrick: 5-0)

D. 679 Clementina Street

J001-25R

The tenant appeals the hearing officer's decision denying his claim of unlawful rent increase. As the master lessee, the tenant had paid \$325.00 rent for the entire 3-unit building, and now pays \$700.00 for a single unit. The hearing officer ruled that, as the tenant no longer had managerial responsibilities, the rent could be increased commensurately. The tenant maintains that the landlord failed to comply with the requirement that any increase in excess of limitations be approved by the Rent Board.

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (Marshall/McGoldrick: 5-0)

MSC: To remand this case to the same hearing officer on the issue of burden of proof and to accept new evidence. (Marshall/McGoldrick: 5-0)

E. 814 California Street

J001-28A

The hearing officer approved an increase based on increased operating expenses, but denied its imposition as to four tenants whose occupancy commenced during the most recent 12-month period (the adjustment year). The hearing officer cited the Board's interpretation in the Stonestown case (Appeal No. H002-70R and 80 through 91R). On appeal the landlord argues that the Dudum case (Appeal No. I001-83A) is more applicable, as ownership changed following the commencement of tenancy during the comparison year.

MSC: To accept the appeal and remand the case to the same hearing officer to conform the decision to the interpretation in the Dudum Case (Appeal No. I001-83A). (Marshall/How: 5-0)

F. 340 Hayes Street

J001-26R

The tenant appeals the hearing officer's denial of his petition regarding an increase to market rent after the death of his roommate, the original tenant. The tenant maintains that he was a tenant at sufferance and therefore entitled to the protections of the Rent Ordinance under the policy established in the Board's DeWolf decision (Appeal No. B136-25).

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (How/Marshall: 5-0)

MSC: To accept the appeal and schedule a Board hearing. (Marshall/McGoldrick: 5-0)

V. Appeal Hearing

780 Guerrero #5

J001-21R (accepted 9/13/88)

Prior to commencement of the scheduled hearing, the parties informed the Commissioners that they had arrived at a settlement. Therefore, the Board went on the record briefly to hear the terms of the settlement and approve such as the Board's decision in this matter. The parties agree that, while the capital improvements are certified, the increase based on capital improvements shall not be imposed on this tenant as long as he occupies this unit.

MSC: To accept the settlement reached by the parties as the Board's decision in this case. (How/Marshall: 5-0)

VI. Communications

The Board received the following communications:

A. The appeal decision in the case at 2724 and 2730 24th Street (Appeal Nos. I002-68A and I002-69A) which was approved with one minor change and signed by Vice-President Astle.

B. The monthly workload statistics for August.

VII. Director's Report

The Executive Director informed the Commissioners that the Maher amendments regarding limitation on rents charged for units vacated due to eviction was tabled by the Supervisor's Land Use Committee, and that water penalty pass-through legislation was not brought up. He will be taping a segment for "Viewpoint" on Channel 6 on Thursday and will be addressing a group of loan brokers on October 6th.

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

The Rent Unit Supervisor informed the Board that the Eviction Unit Supervisor had not received a return phone call from the landlord's attorney in the case at 2724 and 2730 24th Street (I003-63E and I004-65E). It was the consensus of the Commissioners that discussion of this matter shall be continued as a Staff Report at next week's meeting.

1523A



IX. Old Business

The Commissioners reviewed and combined categories for discussion of possible Rules and Regulations changes, as proposed by Commissioner Astle. Commissioners volunteered for the following committees:

Board Operations, Elections and Officers/Conduct of Hearings:  
Stephenson, Astle and Soulis;

Capital Improvements: How, Marshall, Lipski and McGoldrick;

Operating and Maintenance Expense Increases: Marshall, Stephenson, Villa, How and Lipski;

Evictions/Substantial Rehabilitation: Hammill, Astle, McGoldrick, Carrico;

PG&E Passthrough: Executive Director Hernandez;

Decreased Housing Services/Failure to Maintain and Repair: Lipski, Stephenson, Villa and Soulis; and

Comparables: Carrico, Marshall, Soulis.

The committees will begin discussing the issues of operating and maintenance expense increases, evictions, substantial rehabilitation, capital improvements, Board operations and conduct of hearings at the October 4th meeting. The issues of null and void rent increases, banking, decreased housing services and failure to maintain and repair will be discussed at the October 18th meeting.

X. Calendar Items

October 4, 1988

5 appeal considerations

1 eviction reconsideration, plus reports from staff

Rules and Regulations changes committees:

Operating and Maintenance Expenses

Evictions/Substantial Rehabilitation

Board Operations/Conduct of Hearings

Capital Improvements

October 11, 1988

5 appeal considerations

Appeal hearings

6:00 662 Natoma J001-24R (accepted 9/27)

6:30 340 Hayes J001-26R (accepted 9/27)



October 18, 1988

1 appeal consideration

Appeal hearing:

6:00 1580 Beach #202 I007-82T (accepted 7/26, continued from 8/23  
and 9/6)

Rules and Regulations Changes Committees:

Null and void/Banking

Decreased Housing Services/Failure to Maintain

XI. Adjournment

Vice-President Astle adjourned the meeting at 7:15 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 4, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

SEP 30 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- A. 140 Page St. J001-32A
- B. 910-A Guerrero St. J001-27A
- C. 230 Castro #2, 4 & 6 J001-27R through J001-29R,  
J001-30A
- D. 3928 17th Street J001-31A
- E. 999 Fell Street #1 J001-30R

- V. Communications

- VI. Director's Report

- VII. Remarks from the Public

- VIII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff
  - 1. 1426-1428 Guerrero I005-11E and I005-22E  
through 24E
  - 2. 2724 & 2730 24th St. I003-63 and I003-65E
- B. Request for Reconsideration and Staff Report  
910 Guerrero I005-15E

- IX. Old Business

- X. New Business

- XI. Calendar Items

- XII. Adjournment

- XIII. Rules and Regulations Changes Committees

1st hour:

- A. Operating and Maintenance Expenses
- B. Evictions/Substantial Rehabilitation

2nd hour:

- C. Board Operations/Conduct of Hearings
- D. Capital Improvements





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 4,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski;  
Marshall; McGoldrick; Stephenson.

Commissioners not Present: Soulis; Villa.

Staff Present: Hernandez; Wicks.

Commissioner How appeared on the record at 5:39 p.m.

OCT 7 1988

III. Approval of the Minutes

MSC: To approve the Minutes of September 27, 1988 as written.  
(Astle/Marshall: 4-0)

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IV. Consideration of Appeals

A. 140 Page St. J001-32A

By inadvertence the Commissioners were not given the entire case record.

MSC: To put this case over for one week.  
(Astle/McGoldrick: 4-0)

B. 910-A Guerrero St. J001-27A

The landlord appealed the hearing officer's decision allowing a \$50 monthly rent reduction for loss of use of attic area. The tenant had used the space for approximately five years, until the owner informed her in December 1987 that such use was terminated. When she failed to sign a new rental agreement with this loss memorialized--among other new provisions--she was given a notice to terminate tenancy. On appeal the landlord stated that neither he nor any of his agents had ever given permission to use the attic and that use of this space would present a fire threat to the building. The tenant had alleged that the manager in place when she moved in gave express permission to use the attic and the present manager also knew of her use of the space.

MSC: To uphold the hearing officer and deny the appeal.  
(McGoldrick/Marshall: 3-2; Carrico and How dissenting)

C. 230 Castro St. #2, 4, 6 J001-27R, J001-28R, J001-29R

The current landlord, who purchased the building in April 1988, appealed the hearing officer's ruling involving several excessive rent increases imposed by the previous owner. On appeal the landlord argued that he should not be responsible for repaying overcharges of the previous owner. Three tenants appealed, disputing the allowance of capital improvement increases, since there was no proof of permits or Certificates of Completion, and arguing that some of the annual increases should not have been allowed.

MSC: To deny all appeals, with a remand for a possible technical correction of \$50.00 in the base rent of unit #6. (Marshall/Astle: 5-0)

D. 3928 - 17th Street J001-31A

The landlord appealed the hearing officer's determination refunding excessive rent increases charged above the allowable annual amount. When the initial tenant vacated, the landlord believed he was entitled to terminate the tenancy of a remaining tenant. This tenant was not on the original agreement but had resided in the property for approximately five years with the landlord's knowledge but without his express permission. Eventually the tenant and landlord entered into an agreement for a rent increase from \$633.00 to \$1,000.00 per month. One year later the landlord attempted to raise the rent to \$1,200.00. The hearing officer ruled that the subject tenant was entitled to the protections of the Ordinance. On appeal the landlord insisted that the \$1,000.00 rental amount was reached in settlement after the tenant inquired at the Rent Board and was informed that the Board could not help her.

MSC: To uphold the hearing officer and deny the appeal. (McGoldrick/Marshall: 5-0)

E. 999 Fell St. #1 J001-30R

A tenant's appeal was filed, disagreeing with the hearing officer's ruling denying his petition for substantial decrease in service, failure to repair, and unlawful rent increase. In a previous decision, the hearing officer had granted a 10% rent reduction for decreased services and failure to repair. The landlord had inadvertently decreased a rent of \$475.00 to \$308.21, due to computer error; the hearing officer held that the lower rent was henceforth the base rent. On appeal the landlord argued that this error more than compensated the tenant for any decreased services. The remand decision essentially affirmed the original decision. After appeal of the remand decision, the Commissioners heard the case. They held that the base rent remained at \$308.21 but that this compensated for decreased services, and no further reduction would be granted on this basis. In the instant case the hearing officer found that the former repair problems had either been taken care of or were not remedied because the tenant refused to cooperate with workers. The current decreased services and repair situations did not meet the threshold requirements of the law.

Accordingly the petition was denied and the base rent was reset at \$475.00 because former repair problems had been remedied. The tenant argued that the Board had set the base rent at \$308.21 and the hearing officer had improperly reinstated the former base rent of \$475.00.

MSC: To excuse Commissioner Carrico from this consideration.  
(Astle/Marshall: 5-0)

MSC: To accept the case at the Board level, limited to the issue of \$308.21 as the base rent. (Astle/McGoldrick: 4-0)

V. Remarks From the Public

Paul Vlautin, a fractional owner of 3928-17th Street [J001-31A], asked that his name be removed from the listed parties of that case. He stated that he has not been involved in the actions at issue and was neither named as a party by the tenants nor informed in any way that there was a dispute or hearing concerning the property.

MSC: To delete Paul Vlautin's name from the listed parties in case J001-31A. (Astle/Marshall: 5-0)

VI. Communications

The Commissioners received the following communications:

- A. A letter from a party for 910 Guerrero;
- B. The September 1988 Rent Board stastics;
- C. The appeal decision for 780 Guerrero, which was signed;
- D. A postponement request for 622A Natoma, which was granted to October 25, 1988;
- E. The appeal decision for 1290 Jackson with technical correction made, which was signed.

VII. Director's Report

Executive Director Ricardo Hernandez reported on his appearance on "Viewpoint" on Channel 6 last week.

VIII. Consideration of Allegations of Wrongful Evictions

A. Staff Report

- 1. 1426 & 1428 Guerrero I005-11E, I005-22E through I005-24E

Several tenants filed Reports of Alleged Wrongful Eviction because the landlord was literally tearing the building down around them, without the landlord's having followed proper termination procedures. Three of the tenants settled, but the remaining family was neither given proper notice nor reimbursed \$1,000 per tenant upon tender of actual moving expenses; the landlord and his attorney insisted that the children in the family were not entitled to such reimbursement. Despite the fact that the Eviction Unit informed the landlord repeatedly--since early 1525A



June 1988--of the need to file a Petition for Extension of Time, none was received as of October 4, 1988. It was obvious by July that such an extension was legally-mandated. Further, the family was not given a proper termination notice until a short time before the work was originally to have been completed.

EVALUATION & RECOMMENDATION: The Board should write separate cautionary letters to the landlord and his attorney, emphasizing the major improprieties in the eviction attempts pointed out by the hearing officer, reiterating the requirement that each occupant be paid the \$1,000 maximum of verifiable relocation expenses, and stressing the need for the landlord to immediately file a Petition for Extension of Time.

MSC: To excuse Commissioner Carrico from consideration of this matter. (Astle/Marshall: 5-0)

MSC: To accept Staff recommendation. (Marshall/McGoldrick: 4-0).

2. 2724 & 2730 - 24th St. I003-63E & I003-65E

This matter was discussed in the minutes of September 27, 1988 and continued to October 4, 1988. The Eviction Unit Supervisor reported that the landlord had not given written indication of his intent to pursue Unlawful Detainer actions against the involved tenants and had not in any way contacted the Board, as instructed. A report was also given from the tenants' attorney. Given the status of the court cases and the fact that the landlord no longer owns the building, it was the consensus of the Board to continue to monitor the cases to see if further Commission action is needed.

3. 910 Guerrero St. #A I005-15E

[This matter was originally described as a Reconsideration Request but was actually filed as only an appeal. See Consideration of Appeals, B. above.] Upon receipt of a new rental agreement with different terms from those contracted for with the prior owner, the tenant refused to sign because of material changes. The landlord then gave a three-day notice for breach of the rental agreement. The hearing officer found the landlord's attempt to terminate for breach to be improper. The tenant was not legally required to assent to the conditions in the new agreement--which also constituted material changes--some of which were in violation of the Ordinance. Accordingly, no reason to evict the tenant exists. Further, the landlord proceeded incorrectly in giving notice to cure breach of an agreement which had never been signed.

EVALUATION & RECOMMENDATION: Since there is no lawful basis for the termination of tenancy, and since the landlord has likely proceeded in a legally defective manner, a letter should be written to the landlord describing the Board's concerns with this case.

1525A



MSC: To accept Staff recommendation.  
(Astle/McGoldrick: 5-0)

IX. New Business

Commissioner Marshall asked that the Board put under New Business for the meeting of October 11, 1988 the proposed Planning Commission resolution for ensuring affordable unit replacement in cases of residential demolition.

X. Calendar Items

October 11, 1988

6 appeal considerations

New Business: Planning Commission resolution on affordable unit replacement following demolition

6:30- appeal hearing: 340 Hayes J001-26R (accepted 9/27/88)

October 18, 1988

1 appeal consideration

1 eviction reconsideration

6:00- appeal hearing: 1580 Beach St. #2 I007-82T  
(cont.from 8/23 & 9/6/88)

Rules & Regulations Changes Committees

XI. Adjournment

Following adjournment by President Carrico at 7:15 p.m., the Commissioners divided into committees to discuss proposed Rules & Regulations Changes.

Group A--Operating and Maintenance Expenses: The committee met from 7:25 p.m. to 8:35 p.m.

Group B--Evictions/Substantial Rehabilitation: The committee met from 7:30 p.m. to 8:40 p.m.

Group C--Board Operations/Conduct of Hearings: The committee met from 9:05 p.m. to 10:00 p.m.

Group D--Capital Improvements: The committee met from 9:05 p.m. to 10:00 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 11, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- |                                 |                            |
|---------------------------------|----------------------------|
| A. 140 Page St.                 | J001-32A (cont. from 10/4) |
| B. 1310 Turk St. #103           | J001-33A                   |
| C. 600 Alvarado St. #4          | J001-35R                   |
| D. 1901, 1903 & 1907 Larkin St. | J001-32R through J001-34R  |
| E. 2124 Hyde St. #2 & #3        | J001-31R & J001-37R        |
| F. 1434 Jones St. #1            | J001-36R                   |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- Planning Commission's Proposed Resolution on Demolition
- XI. Appeal Hearing
- |                    |                          |
|--------------------|--------------------------|
| 6:30 340 Hayes St. | J001-26R (accepted 9/27) |
|--------------------|--------------------------|
- XII. Calendar Items
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 11,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill;  
Marshall; Stephenson.  
Commissioners not Present: How; Lipski; McGoldrick; Soulis;  
Villa.  
Staff Present: Hernandez; Wolf.

III. Executive Session

The Board went into Executive Session at 5:37 p.m., pursuant to  
Government Code Section 54956.9(a), to discuss pending litigation  
regarding the cases at 900 Chestnut Street and 1290 Jackson Street.  
After discussing the cases with Deputy City Attorney Richard Judd, the  
Board returned from Executive Session at 6:31 p.m. and made the  
following motion:

MSC: To vacate the decision regarding 900 Chestnut Street  
subject only to any stipulation between the parties  
concerning a re-hearing. (Astle/Hammill: 4-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of October 4, 1988 as written.  
(Astle/Marshall: 4-0)

V. Consideration of Appeals

A. 140 Page Street J001-32A (cont. from 10/4)

The landlord appeals the hearing officer's decision refunding  
overcharges due to illegal rent increases imposed by a prior owner.  
The landlord appeals as to one unit only, where the PG&E pass-through  
was improperly included in base rent when calculating annual  
increases. As this tenant did not receive rent increases in 1982 and  
1985, the landlord maintains that this benefit should offset sums  
overcharged.

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MSC: To deny the appeal conditional on staff checking to be sure that the Regulations in effect at the time of the first illegal increase excluded PG&E pass-throughs from base rent. (Marshall/Hamill: 4-0)

B. 1310 Turk Street #103 J001-33A

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services as to one unit only. The tenant in that unit received a rent reduction of 25% for the 12 months prior to filing the petition due to the lack of a heating appliance in her unit. On appeal, the landlord alleges that the tenant always had a radiator and that upon notification that there were problems regarding heat, repairs were promptly initiated.

MSC: To remand the case to the same hearing officer on the issue raised in the landlord's appeal.  
(Marshall/Astle: 4-0)

C. 600 Alvarado Street #4 J001-35R

Due to an administrative error, notice was not sent to the landlord's attorney in this case.

MSC: To continue consideration of this appeal for two weeks. (Astle/Marshall: 4-0)

D. 1901, 1903 & 1907 Larkin Street J001-32R through J001-34R

Three tenants appeal the hearing officer's decision granting rent increases due to capital improvements and increased operating expenses. The tenants claim that the decision (1) is not supported by substantial evidence, (2) creates hardship for the tenants; and (3) departs from established Rent Board policies and procedures.

MSC: The appeal will be denied and the decision shall become final unless substantiation of the grounds for the tenants' appeal is received within two weeks.  
(Astle/Marshall: 4-0)

E. 2124 Hyde Street #2 & 3 J001-31R and J001-37R

Two tenants appeal the hearing officer's decision granting an operating expense increase for the second consecutive year. The tenants maintain that, even though the landlord's debt service payments went up two years in a row, the landlord's choice of terms for the note on the property improperly skewed the results, as disfavored under Rules Section 6.10(b). The tenants also allege that expenses connected with the renovation of vacant units were improperly included in the "repair" category.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Astle/Marshall: 4-0)

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (Astle/Marshall: 4-0)

MSF: To accept the appeal for a hearing before the Board. (Marshall/Hammill: 2-1; Astle dissenting)

MSC: To continue consideration of this appeal for two weeks. (Marshall/Hammill: 3-0)

F. 1434 Jones Street #1 J001-36R

The tenant appeals the hearing officer's decision denying his claim of decreased housing services. The tenant has a rental agreement which allows for only one occupant. He alleges that management's refusal to allow him to have a roommate is a decrease in services, as he anticipated upon moving in that he would be able to obtain permission. This issue was first raised by the tenant in 1986. That petition was denied and, in this case, the hearing officer ruled the issue res judicata. The tenant now maintains that the issue has not been decided, as there has been a change in management's policies.

MSC: To deny the appeal. (Hammill/Marshall: 4-0)

#### VI. Appeal Hearing

340 Hayes Street #502 J001-26R

The Board accepted the tenant's appeal on September 27, 1988. The hearing officer had denied the tenant's petition regarding an increase to market rent after the death of his roommate, the original tenant. The tenant maintained that he had been living in the unit for 6-1/2 years and therefore was entitled to the protections of the Rent Ordinance under the interpretation established in the Board's DeWolf decision (Appeal No. B136-25). The landlord felt that the tenant appellant was not an original tenant as defined by DeWolf, as he moved in a few years after the tenant who held the lease.

The hearing began at approximately 7:13 p.m. The tenant appeared and represented himself; the landlord appeared with his attorney and resident manager. Upon conclusion of the hearing at 7:53 p.m., the Commissioners discussed the case and made the following motion:

MSC: To reverse the hearing officer's decision and find that the unit did not become decontrolled upon the death of the initial occupant. (Marshall/Astle: 4-0)

#### VII. Communications

The Commissioners received copies of two articles regarding a settlement reached in one of the City's largest habitability actions.



VIII. Remarks from the Public

Several members of the public engaged the Commissioners in a discussion regarding the Board's interpretation of the DeWolf decision regarding roommates.

IX. New Business

The Board's discussion of the Planning Commission's proposed resolution on demolition was continued to the October 25, 1988 meeting.

X. Calendar Items

October 18, 1988

1 appeal consideration  
1 eviction reconsideration

6:00 Appeal Hearing: 1580 Beach St. #2 I007-82T  
(cont. from 8/23 & 9/6/88)  
Rules and Regulations Changes Committees

October 25, 1988

6 appeal considerations (including 2 cont. from 10/11)  
6:00 Appeal Hearing: 662 Natoma J001-24R (cont. from 10/11)  
New Business:  
Planning Commission's Proposed Resolution on Demolition

XI. Adjournment

President Carrico adjourned the meeting at 8:07 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 18, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals  
508 Scott St. #1 and #4 J001-34A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff  
167 21st Ave. #101 I003-82E
  - B. Request for Reconsideration  
1229 Ulloa Street J001-35A
- IX. Old Business
- X. New Business
- XI. Appeal Hearing  
6:00 1580 Beach St. #202 I007-82T (accepted 7/26;  
cont. from 8/23 and 9/6/88)
- XII. Calendar Items
- XIII. Adjournment
- XIV. Rules and Regulations Changes Committees
  - A. Null and Void/Banking
  - B. Decreased Housing Services/Failure to Maintain
  - C. PG&E

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1529A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 18,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

8/28  
I. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; Lipski; Soulis;  
Stephenson.  
Commissioners not Present: Astle; Marshall; McGoldrick;  
Villa.  
Staff Present: Hernandez; O'Hearn.

Commissioner How appeared on the record at 5:38 p.m. and Commissioner Hammill left at 7:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of <sup>October</sup> August 11, 1988 as written.  
(Stephenson/Hammill: 4-0)

IV. Consideration of Appeal

508 Scott St. #1 & #4

J001-34A

OCT 21 1988

The landlord appeals the hearing officer's decision granting rent reductions from September 1987 through February 1988 to correspond with decreased housing services resulting from the lack of repairs. Rent reductions were not granted after that date since the landlord began responding to the tenants' requests after they finally put them in writing in February 1988. The landlord contends that he was not afforded an adequate opportunity to present his side of the case.

MS: To deny the appeal. (Hammill/Stephenson:)

Following discussion on the motion, Commissioner Lipski offered to listen to the tape recording of the hearing in order to determine whether the landlord had a fair hearing.

MSC: To table the matter until next week. (Lipski/How: 5-0)

V. Communications

The Board received the following communications:

A. A letter from the tenant of 600 Alvarado St. #4 withdrawing her appeal (No. J001-35R) which originally was scheduled for consideration on October 11, 1988 and continued to October 25, 1988.

B. The Appeal Decision for 638-A Clayton St. (No. J001-13A) with a letter to the former owners, both of which were approved and signed.

C. A letter from the Tenants' Association for 903 & 929 Pine Street concerning the delay of their landlord's petitions (J001-06C & J001-07C) submitted to the Rent Board on July 8, 1988. Rent Board staff wrote to the landlord's agent on October 13, 1988 requesting completion of the petition and the balance due for the estimator's fees. The Board directed staff to forward the Tenants' Association letter to the landlord and request a reply by the next meeting.

D. President Carrico received a letter from the Mayor soliciting gifts for a special employee recognition program. The letter and attachment showing last year's program will be copied and sent to the other Rent Board Commissioners for discussion next week.

#### VI. Director's Report

The Executive Director reported on his current review of the budget cycle with the Mayor. He provided the Commissioners with a copy of the Mayor's letter to Department Heads dated October 18, 1988 and attached "Policy Guidelines for Budget Development."

The Director also reported that the Board office has received numerous complaints because of the mistaken belief that the Rent Board has taken a position against Proposition U on the ballot.

#### VII. Appeal Hearing

1580 Beach St. #202

J001-03A

On July 26, 1988 the Board accepted the landlords' appeal concerning null and void increases and the applicable anniversary date. The appeal hearing began at approximately 6:15 p.m. with the landlords representing themselves and the tenant represented by her attorney. After the hearing closed at approximately 7:20 p.m., the Commissioners discussed the case and approved the following motion:

MSC: To modify the Hearing Officer's Decision such as to retain the null and voiding of the November 1985 increase (imposed less than 12 months after the prior increase), but to accept both February 1986 increases for storage space and for the addition of another tenant, only until the demise of that tenant, without changing the anniversary date. (Lipski/How: 5-0)

#### VIII. Remarks from the Public

A landlord complimented the Commissioners on their handling the above case.

#### IX. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

167 - 21st Ave. #101

I003-82E/J001-29A

The Eviction Unit Supervisor provided the Commissioners with copies of both the Board's letter to the landlord and the latest letter from the landlord's attorney to the tenant, as well as a written update.

B. Request for Reconsideration

1219 Ulloa St. I004-80E & I004-86E/J001-35A

The landlord requests reconsideration of the hearing officer's recommendation that there is no just cause for eviction because reconfiguration for habitable use is not a permanent removal of the rental units from housing use. The landlord was informed in October 1985 that two "in-law" units below the house were illegal. Although his application in November 1985 for permission to legalize the units was denied, he subsequently rented out both units.

The Planning Department has ordered the landlord to correct or remove zoning violations caused by the existence of these units added to a single family home, located in one-family house zoning area. The City has filed a court complaint against the owner for an order demolishing the illegal structures.

Both the hearing officer and staff urged settlement by the parties and monitoring by the Board. The Commissioners expressed their concern over the landlord's dilemma and the possible application of permanent removal grounds for eviction in these cases.

MSC: To accept the request for reconsideration and schedule a Board hearing solely on the applicability of eviction grounds under Ordinance Section 37.9(a)(10).  
(How/Lipski: 4-0)

X. Calendar Items

October 25, 1988

6 appeal considerations

(including 1 cont. from 10/11 and 1 from 10/18)

6:00 Appeal Hearing: 662 Natoma St. J001-24R (cont. from 10/11)

New Business:

Planning Commission's Proposed Resolution on Demolition

November 1, 1988

3 appeal considerations

Appeal Hearing: 999 Fell St. J001-30R (accepted 10/4)

November 8, 1988 - Election Day - No meeting.

XI. Adjournment

President Carrico adjourned the meeting at 8:15 p.m. Due to the absence of some of the Commissioners, the Board did not convene its Rules and Regulations Changes Committees.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 25 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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I. Call to Order

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II. Roll Call

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III. Approval of the Minutes

IV. Consideration of Appeals

|    |                               |   |
|----|-------------------------------|---|
| A. | 2124 Hyde St. #2 & #3         | J001-31R & J001-37R<br>(cont. from 10/11) |
| B. | 508 Scott St. #1 & #4         | J001-34A (cont. from 10/18)               |
| C. | 2774 Harrison St.             | J001-37A                                  |
| D. | 2643 Greenwich St.            | J001-38A                                  |
| E. | 1062 & 1066 So. Van Ness Ave. | J001-38A                                  |
| F. | 4210 Balboa St.               | J001-38R                                  |

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

|    |   |
|----|---|
| A. | Letter from Tenants' Association for 903 & 929 Pine St. |
| B. | Discussion of possible Employee Recognition Program     |

X. New Business

Planning Commission Resolution on Demolition

XI. Appeal Hearing

|      |                |   |
|------|----------------|---|
| 6:00 | 662 Natoma St. | J001-24R (accepted 9/27;<br>cont. from 10/11) |
|------|----------------|---|

XII. Calendar Items

XIII. Adjournment









MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 25,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Carrico; Lipski; Marshall;  
McGoldrick; Soulis.  
Commissioners not Present: Astle; Hammill; Stephenson; Villa.  
Staff Present: Wicks; Wolf.

Commissioner How appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 18, 1988, as written.  
(Marshall/Lipski: 4-0)

IV. Consideration of Appeals

A. 2124 Hyde St. #2 & #3 J001-31R & J001-37R  
(Cont. from 10/11)

Two tenants appealed the hearing officer's decision granting an operating expense increase for the second consecutive year. The tenants maintain that even though the landlord's debt service payments went up two years in a row, the landlord's choice of terms for the note on the property improperly skewed the results. They argue that this is disfavored under Rules and Regulations Section 6.10(b). The tenants also allege that expenses connected with the renovation of vacant units were improperly included in the "repair" category.

MSC: To excuse Commissioner Carrico from considering this matter. (Carrico/Marshall: 5-0)

MSC: To remand with instructions that Board policy disallows two debt service increases from the same purchase; and to examine the repair/capital improvement issue raised on appeal. (Lipski/McGoldrick: 3-2; How and Soulis dissenting)

B. 508 Scott St. #1 & #4 J001-34A (cont. from 10/18)

The landlord appealed the hearing officer's decision granting rent reductions from September 1987 through February 1988, to correspond with decreased housing services resulting from the lack of repairs.



Rent reductions were not granted after that date since the landlord began responding to the tenants' requests when they finally put them in writing in February 1988. The landlord contends that he was not afforded an adequate opportunity to present his side of the case.

MSC: To uphold the hearing officer and deny the appeal.  
(Marshall/McGoldrick: 5-0)

C. 2774 Harrison St.

J001-36A

The landlord appealed the hearing officer's determination allowing some increases imposed by a prior owner but disallowing others, while explaining the allowable amounts the new owner could "bank." On appeal the current owner expressed surprise at the tenant's allegations of improper increases and maintained that the previous owner could refute the tenant's claims.

MSC: To remand the case on the issues raised on appeal.  
(Marshall/McGoldrick: 5-0)

D. 2643 Greenwich St.

J001-37A

The hearing officer's decision was appealed by the new landlord because overpayments of rent increases imposed by the previous owner were null and void. The hearing officer found that the property had been owner-occupied until June 1986, and that a large rent increase effective in July 1986 was invalid since the property was no longer exempt. On appeal the owner stated that she was not a party to the action; the tenant was advised of his rights before signing the agreement for the increase; and regular increases were forgone until the owner wished to bring the unit up to market rent for sale, while still exempt.

Because the Commissioners were not given all necessary materials, the matter will be continued to November 1, 1988.

E. 1062 & 1066 So. Van Ness Ave.

J001-38A

This case is a remand of a previous appeal. One tenant was granted overpayment adjustments, with the right to banked increases explained; the other tenant did not prevail since documentation of past increases was absent or incomplete. Both tenants were granted reductions for decreases in service, including conversion from steam heat to individual heating systems, severe garbage disposal problem, pest infestation, and leaks. On appeal the landlord protested that the tenants were responsible for many of the habitability problems, they did not allow workers in, and she would have to sell the property because of her negative cashflow. One of the tenants wrote to refute the issues in the landlord's appeal.

MSC: To accept the case at the Board level only on the issue of landlord hardship. (How/Carrico: 5-0)



F. 4210 Balboa St. #404

J001-38R

One tenant of ten involved tenants appealed the hearing officer's decision certifying capital improvement increases. The work was in progress from 1980 to 1987. The appellant objected to receiving increases for work done before she moved into the building, stating she began her tenancy in 1984. She further protested that paying the increase would be a grave financial hardship for her. In rebuttal the landlord submitted a copy of a rental agreement for the tenant signed in 1977.

MSC: To accept the case at the Board level on the issue of tenant hardship and date of the inception of the tenancy. (Marshall/McGoldrick: 5-0)

V. Appeal Hearing

662 Natoma St.

J001-24R

One tenant had appealed the hearing officer's determination that the subject property consisted of four units and was exempt because of owner-occupancy. All parties agreed the owner resides in the property. However, the tenants claimed that the landlord moved into a basement unit and lived there for some time before relocating in one of the upper apartments. They contend, therefore, that the building consists of five units, not four. Further, the appellant testified that an earlier Unlawful Detainer action had involved the owner's basement occupancy. The landlord testified that he had used the basement extensively when he first purchased the property as a workshop for repairs; now he continues various hobbies in that area. He stated there is a toilet in the basement but no bed. The landlord further denied that the previous Unlawful Detainer action included an admission that he had lived in the basement.

After listening to the testimony and reviewing the evidence, the Board voted as follows:

MSC: To uphold the hearing officer and find that the property is a four-unit, owner-occupied exempt building. (How/Carrico: 5-0)

VI. Communications

The Commissioners received the following communications:

- A. A letter from the Mayor in regard to next year's budget;
- B. A memo from the Clerk of the Board of Supervisors concerning workshops on the City's legislative process;
- C. A copy of a letter from a tenant to his landlord concerning 2020 California;
- D. A letter from Mayor Agnos detailing the Employee Recognition Program;
- E. Several letters concerning 903-929 Pine;
- F. Documents on the matter for 1066 So. Van Ness.



VII. Consideration of Allegations of Wrongful Eviction

Staff Report--Update

2333 Turk Blvd. I004-35E

The Eviction Unit Supervisor reported on 2333 Turk, which had been referred to and investigated by the District Attorney. The tenant remains in place and no further eviction action has been instigated. The District Attorney and Rent Board will continue to monitor the situation.

VIII. Old Business

- A. The Commissioners reviewed documents and Staff reported on the situation regarding 903 & 929 Pine Street.
- B. The Commissioners discussed the Employee Recognition Program.

IX. New Business

The Board reviewed the Planning Commission Resolution concerning maintaining affordable housing following demolition. Commissioner Marshall volunteered to further review the matter and keep the Board informed of the status of the Resolution in the legislative process.

X. Calendar Items

NOVEMBER 1, 1988:

Executive Session: Chestnut Place v. S.F. Rent Board  
and Landau v. S.F. Rent Board

4 appeal considerations

Consideration of Allegations of Wrongful Evictions

1 eviction Staff report

New Business:

Adoption of Policy Statement prohibiting AIDS discrimination

Appeal Hearing:

6:00- 999 Fell St. #1 J001-30R (accepted 10/4/88)

Rules and Regulations Changes Committees

A. Null and Void/Banking

B. Decreased Housing Services/Failure to Maintain

C. PG&E

NOVEMBER 8, 1988 - NO MEETING--Election Day

NOVEMBER 15, 1988

3 appeal considerations

Eviction Hearing:

6:00- 1229 Ulloa St. J001-35A (accepted 10/18/88)

Appeal Hearing

6:30- 1062 & 1066 So. Van Ness (accepted 10/25/88)

XI. Adjournment

President Carrico adjourned the meeting at 8:50 p.m.







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#2 11/1/88

NOV 8 1988

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 2, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Commissioner Marshall called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Lipski; Marshall; McGoldrick; Soulis.  
Commissioners not Present: Astle; Carrico; Stephenson; Villa.  
Staff Present: Hernandez; Wolf.

III. Executive Session

The Board went into Executive Session at 5:40 p.m., pursuant to Government Code Section 54956.9(a), to discuss pending litigation regarding the cases at 900 Chestnut Place and 1290 Jackson Street. After discussing the cases with Deputy City Attorney Richard Judd, the Board returned from Executive Session at 6:07 p.m. and made the following motion regarding the case at 1290 Jackson Street:

MSC: That the City Attorney be authorized to agree not to file a brief opposing the petition, on the condition that the landlord agrees on terms approved by the City Attorney that additional rent increases for common area improvements for unit numbers 7 and 16 be limited by a continuing 8% maximum annual rent increase.  
(How/Lipski: 5-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of October 25, 1988 as written.  
(How/Lipski: 5-0)

V. Consideration of Appeals

A. 2643 Greenwich Street J001-37A (cont. from 10/25/88)

The hearing officer's decision was appealed by the new landlord because overpayments of rent increases imposed by the previous owner were null and void. The hearing officer found that the property had been owner-occupied until June 1986, and that a large rent increase effective in July 1986 was invalid since the property was no longer exempt. On appeal the owner stated that she was not a party to the

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

November 15, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- |                           |          |
|---------------------------|----------|
| A. 800 Bush St. #201      | J001-40A |
| B. 575 - 3rd Ave. #4      | J001-41A |
| C. 1447 Sacramento St. #3 | J001-41R |
| D. 169 - 12th Ave. #5     | J001-42R |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- Hearing
- |                          |                           |
|--------------------------|---------------------------|
| 6:00 p.m. 1229 Ulloa St. | J001-35A (accepted 10/18) |
|--------------------------|---------------------------|
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
- |                                    |                           |
|------------------------------------|---------------------------|
| 6:30 1062 & 1065 So. Van Ness Ave. | J001-38A (accepted 10/25) |
|------------------------------------|---------------------------|
- XII. Calendar Items
- XIII. Adjournment

action; the tenant was advised of his rights before signing the agreement for the increase; and regular increases were foregone until the owner wished to bring the unit up to market rent for sale, while still exempt.

MSC: To deny the appeal. (McGoldrick/Marshall: 5-0)

B. 1878 Market Street #310 J001-39R

One tenant appeals the hearing officer's decision granting rent increases due to capital improvements. The tenant claims that the increase would create a financial hardship for him; that he has spent a good deal of money on improvements to his unit; and that he is currently paying an illegal increase imposed by a prior owner.

MSC: To schedule this case for a Board hearing on the issue of tenant hardship only. (McGoldrick/Lipski: 5-0)

C. 2038 Divisadero St. #104 J001-40R

One tenant appeals the hearing officer's decision certifying capital improvement pass-throughs, claiming that the work performed was in the nature of repair and maintenance, and not capital improvement.

MSC: To deny the appeal. (How/Soulis: 5-0)

D. 75 Gough Street #17 J001-39A

The landlord appeals the hearing officer's remand decision concerning overcharges due to an additional occupant in the unit, the tenant's son. The case was originally remanded for mathematical corrections, which were made. On further appeal, the landlord argues that the presence of an additional tenant in a unit should be grounds for a rent increase, even when there is no such provision in the rental agreement.

MSC: To deny the appeal. (McGoldrick/Marshall: 5-0)

#### VI. Appeal Hearing

999 Fell Street #1 J001-30R

A tenant's appeal was filed, disagreeing with the hearing officer's ruling denying his petition for substantial decrease in service, failure to repair, and unlawful rent increase. In a previous decision, the hearing officer had granted a 10% rent reduction for decreased services and failure to repair. The landlord had inadvertently decreased a rent of \$475.00 to \$308.21, due to computer error; the hearing officer held that the lower rent was henceforth the base rent. On appeal the landlord argued that this error more than compensated the tenant for any decreased services. The remand decision essentially affirmed the original decision. After appeal of the remand decision, 1550A

the Commissioners heard the case. They held that the base rent remained at \$308.21 but that this compensated for decreased services, and no further reduction would be granted on this basis.

In the instant case the hearing officer found that the former repair problems had either been taken care of or were not remedied because the tenant refused to cooperate with workers. The current decreased services and repair situations did not meet the threshold requirements of the law. Accordingly, the petition was denied and the base rent was reset at \$475.00 because former repair problems had been remedied. The tenant argued that the Board had set the base rent at \$308.21 and the hearing officer had improperly reinstated the former base rent of \$475.00. The Board accepted the tenant's appeal, limited to the issue of \$308.21 as the base rent only.

At the instant Board hearing, the landlord's attorney argued that no illegal rent increase exists, but rather reinstitution of the original contract rent now that services have been restored. The tenant's attorney maintained that the principles of res judicata and collateral estoppel apply, barring the Board from re-opening the issue of the correct base rent. After listening to the testimony and discussing the case, the Commissioners voted as follows:

MSC: To vacate the hearing officer's decision and reaffirm the Board's previous decision that the base rent is \$308.21, with the landlord's right to impose banked increases on that amount. (Lipski/McGoldrick: 4-1; Soulis dissenting.)

#### VII. Communications

The Commissioners received the following communications:

A. A letter from a tenant regarding the property at 901-903 and 929 Pine Street; and

B. A newspaper article regarding the City's lawsuit against the owners of the Abigail Hotel.

#### VIII. Director's Report

The Executive Director gave the Commissioners some additional information regarding the Abigail Hotel case.

#### IX. Remarks From the Public

A tenant from 903 Pine Street attempted to ask Board members some procedural questions and was informed that, as this case is currently pending, it was inadvisable for the Commissioners to comment at this time. Several landlord members of the audience commented on the appeal hearing.

1550A

X. Consideration of Allegations of Wrongful Evictions

Report from Staff

3022 Buchanan

H006-99E

The tenants moved into the building in 1979. The owner, who lives in Walnut Creek, purchased the property in late 1986. He testified that he purchased the 2 unit building as a place for his children to live when they go to college in San Francisco. At the time of purchase, the landlord's daughter was attending a Community College in San Diego and his son a Community College in San Louis Obispo. The eviction attempt against these tenants came less than two months after the tenants refused to pay a rent increase in excess of 100%; and one month after a 3-year lease was given to new tenants in the other unit in the building. The landlord had also attempted to sell the building in the recent past.

Recommendation: To write the landlord a cautionary letter, advising him that the Board will continue to monitor this situation and may recommend that the District Attorney investigate this matter as a possible retaliatory and otherwise wrongful eviction if the owner proceeds with the termination effort.

MSC: To accept staff's recommendation.  
(How/McGoldrick: 5-0)

XI. New Business

The Board members reviewed the Civil Service Commission's Policy Statement prohibiting discrimination in employment on the basis of AIDS, and made the following motion:

MSC: To adopt the Civil Service Commission's Policy Statement on Aids discrimination as Rent Board policy. (Soulis/McGoldrick: 5-0)

XII. Calendar Items

November 15, 1988

4 appeal considerations

Eviction Hearing:

6:00 1229 Ulloa Street J001-35A (accepted 10/18/88)

Appeal Hearing:

6:30 1062 & 1066 So. Van Ness J001-38A (accepted 10/25/88)

November 22, 1988

3 appeal considerations

Appeal Hearings:

6:00 4210 Balboa Street #404 J001-38R (accepted 10/25/88)

6:30 1878 Market St. #310 J001-39R (accepted 11/1/88)



Rules and Regulations Changes Committees

- A. Operating and Maintenance Expenses
- B. Evictions/Substantial Rehabilitation
- C. Board Operations/Conduct of Hearings
- D. Capital Improvements

XIII. Adjournment

Commissioner Marshall adjourned the meeting at 7:56 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

November 15, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

## AGENDA

\*\*\*\*\*

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- |                           |          |
|---------------------------|----------|
| A. 800 Bush St. #201      | J001-40A |
| B. 575 - 3rd Ave. #4      | J001-41A |
| C. 1447 Sacramento St. #3 | J001-41R |
| D. 169 - 12th Ave. #5     | J001-42R |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- Hearing
- 6:00 p.m. 1229 Ulloa St. J001-35A (accepted 10/18)
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
- 6:30 1062 & 1065 So. Van Ness Ave. J001-38A (accepted 10/25)
- XII. Calendar Items
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 15,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

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I. Call to Order

President Carrico called the meeting to order at 5:39 p.m.

NOV 17 1988

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II. Roll Call

Commissioners Present:

Carrico, Hammill, How, Lipski,  
Marshall, McGoldrick, Stephenson,  
Soulis, Villa

Commissioners not Present:

Astle

Staff Present:

Hernandez; Wicks.

III. Approval of the Minutes

MSC: To approve the Minutes of November 1, 1988, as written.  
(Marshall/How: 5-0)

IV. Consideration of Appeals

A. 800 Bush St. #201

J001-40A

The landlord appealed the hearing officer's ruling that found improper utility passthrough costs imposed twice a year since 1980. The landlord contended that she followed a formula set out in a 1980 landlords' publication. However, because the law changed in August 1982, all utility increases since that date were held to be null and void in their entirety, by operation of law. On appeal the landlord argues that imposing the increase each six months did not result in substantial deviation from the correct amount which could be imposed.

MSF: To uphold the hearing officer and deny the appeal.  
(Marshall/McGoldrick: 2-3; Commissioners Carrico, How, and Lipski dissenting.)

MSC: To remand the case with instructions to recalculate the utility passthroughs in accordance with the law and rebate any overpayments; and to devise a reasonable method for transition to the proper calculation formula.  
(Marshall/Lipski: 5-0)

B. 575 -3rd Ave. #4

J001-41A

The hearing officer's determination was appealed by the landlord, who protested the disallowance of certain capital improvement increases.

The hearing officer felt some work did not benefit the unit but merely cosmetically restored it to its original style or brought it into conformity with the interiors of the other units. On appeal the landlord protested that all of the work was substantial and necessary, not merely cosmetic restoration. In response the tenant's representative indicated that the subject tenant was elderly, did not understand English, did not comprehend the extent of the work to be done or his right to protest, or his responsibility to pay a 60% increase for the work.

MSC: To uphold the hearing officer and deny the appeal.  
(Marshall/McGoldrick: 3-2; Commissioners Carrico and How dissenting)

C. 1447 Sacramento St. #3 J001-41R

The tenant appealed the hearing officer's decision dismissing his petition with prejudice since the tenant neither appeared at the hearing nor sent a written excuse. The tenant indicated that he was told when he filed on August 24, 1988 that the hearing would be set approximately 45 days from then; he therefore left the country shortly after filing and was not back in time to receive notice of or attend the hearing.

MSC: To remand the case for a new hearing.  
(McGoldrick/Marshall: 5-0)

D. 169 - 12th Ave. #5 J001-42R

The hearing officer's determination that the tenant had not met his burden of proving decreased services was appealed by the petitioner. The tenant protested that the tiny refrigerator in the unit, shared by him and his wife, was inadequate for two people and caused several instances of food poisoning. The landlord argued that the refrigerator is working order. On appeal the tenant objected to the hearing officer's determination that the refrigerator's size was merely an inconvenience and that the unit was actually intended as a one-person residence for which the refrigerator would be adequate.

MSC: To uphold the hearing officer and deny the appeal.  
(Marshall/Lipski: 5-0)

#### V. Communications

The Commissioners received the following communications:

A. The October 1988 monthly statistics;

B. The draft decisions for 1580 Beach Street #202 and 662A Natoma, which were approved and signed;

C. A request from an attorney for drafts of the proposed Rules and Regulations changes;

D. Statements from both sides for 800 Bush Street; from the hearing officer and tenant in 574 -3rd Ave. #4; from both sides of 1447 Sacramento; and from the hearing officer for 169 - 12th Ave. #5;

E. A letter from a tenant at 901-903/929 Pine Street.

VI. Consideration of Allegations of Wrongful Evictions

Hearing: 1229 Ulloa St. J001-35A (accepted 10/18/88)

A hearing was scheduled on this matter at 6:00 and began on the record at 6:22 p.m. Appearing were tenants' attorney Catherine Steane and landlord's attorney John Kao. The representatives informed the Board that their clients were in the process of settling the case, but settlement was not yet finalized. They asked the Board for a two week continuance so that they can attempt to reach final resolution. It was the consensus of the Board to grant the continuance; the parties will appear before the Board at the November 29, 1988 meeting to report on their settlement effort.

VII. Director's Report

Executive Director Ricardo Hernandez commented on the budget process for the Rent Board for the coming year.

VII. Remarks from the Public

A member of the public played a tape recorded segment of a radio call-in show featuring Mayor Agnos' response to a caller's comments about the Rent Board.

VIII. Appeal Hearing

1062 & 1065 So. Van Ness Ave. J001-38A (accepted 10/25/88)

A hearing on the case was scheduled for 6:30 p.m. and began on the record at 6:44 p.m. Appearing were landlord-appellant Concepcion Espinoza, tenants Osvelia Arias and Maria Menjivar, and tenants' interpreter Anthony Herrera. The case came to the Board after remand from a previous landlord appeal. One tenant had been granted rebates from rent overpayments, and both tenants were given reductions for decreased services. On appeal the landlord had maintained that she would have to sell the property because of the negative cashflow exacerbated by the hearing officer's ruling. The Board took the case on the issue of landlord's hardship, only.

At the hearing before the Commissioners, the landlord informed the Board that she had sold the property, with transfer taking place on November 7, 1988. However, she indicated that she wanted resolution of

page 4 of the Minutes of November 15, 1988

her protest over the ordered rent reductions, since she had agreed with the new owner that she would be responsible for settling all outstanding disputes. Upon questioning, the landlord stated that she owned a business--which she is developing and expanding after having sold a previous business--and that she was in the process of attempting to buy a single-family residence. Because of the loans she had taken out to improve the subject building, there was very little left from the sale; paying the outstanding refunds from the decision therefore constituted a financial hardship for her. One tenant testified that she had been reimbursed, but the other tenant still has outstanding refunds that she continues to deduct from her rent; she is concerned that the new owner be informed of the propriety of these continuing deductions.

The hearing closed at 7:52. After discussing the evidence and testimony, the Board voted as follows:

MSC: To deny the landlord's hardship appeal. Unless otherwise refunded, tenant Menjivar may continue to reduce her rent until the ordered rebate is satisfied. (McGoldrick/Marshall: 5-0)

IX. Calendar Items

November 22, 1988

3 appeal considerations

appeal hearing:

6:00- 4210 Balboa St. #404 (accepted 10/25/88)

6:30- 1878 Market St. #310 (accepted 11/1/88)

Old Business: Rules & Regs. changes (same committees as 10/4/88)  
2 eviction case summaries

November 29, 1988

7 appeal considerations

Old Business: Rules & Regs. Changes (same committees as 10/18/88)

X. Adjournment

President Carrico adjourned the meeting at 8:05 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

November 22, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 1086 - 1088 Fulton St. J001-42A
  - B. 550 Moraga St. J001-43R
  - C. 730 Leavenworth #10 J001-43A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff
    1. 865 Capp St. J001-15E, 16E, 17E
    2. 825 Masonic St. J001-08E
    3. 424 Gates St. I005-41E (UPDATE)
- IX. Old Business: Proposed Rules & Regs. Changes (committees of 10/4)
- X. New Business
- XI. Appeal Hearing
  - 6:00 4210 Balboa St. #404 J001-38R (accpt. 10/25/88)
  - 6:30 1878 Market St. #310 J001-39R (accpt. 11/1/88)
- XII. Calendar Items
- XIII. Adjournment

1554A







SF  
R52  
#2  
11/22/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 22, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
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I. Call to Order

President Carrico called the meeting to order at 5:37

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski;  
Marshall; Stephenson; Villa  
Commissioners not Present: Soulis  
Staff Present: Hernandez; Wolf

Commissioner How appeared on the record at 5:41 p.m. Commissioner McGoldrick appeared at 5:50 p.m. and went off the record at 9:30 p.m. Commissioner Astle left the meeting at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 15, 1988 as written.  
(Hammill/Astle: 5-0)

IV. Consideration of Appeals

A. 1086-1088 Fulton Street J001-43R

The landlords filed a petition for rent increases due to increased operating expenses on the property they had recently inherited. Although several items were disallowed by the hearing officer as insufficiently documented or inappropriate, the landlords were granted the 7% maximum increases allowable. The landlords maintain in their appeal that certain categories of expenses were improperly excluded and that the decision is contrary to Board policies.

MSC: To deny the appeal. (Astle/Hammill: 5-0)

B. 550 Moraga Street J001-43R

The tenant appeals the hearing officer's determination that the subject property is an exempt, owner-occupied building. The issue is whether a co-trustee and beneficiary meets the exemption requirements contained in Rules and Regulations Section 1.14(e).

MSC: To accept the appeal and schedule a hearing before the Board. (Astle/Marshall: 3-2; Carrico, Villa dissenting)

C. 730 Leavenworth #10

J001-43A

The landlord appeals the hearing officer's decision on remand disallowing an additional operating expense increase due to property taxes paid the year after sale of the property. The Board had remanded the case with instructions to "reconsider the tax costs in the adjustment year which should have been incurred at the time of purchase during the comparison year." The landlord maintains the tax expenses should be considered when actually paid.

MSC: To remand this case to the same hearing officer for a technical correction to reconcile the numbers on the charts. (Astle/Hammill: 5-0)

V. Communications

The Commissioners received the following communications:

A. A letter from the landlord's attorney for 800 Bush Street complimenting Commissioner Lipski for his handling of the case.

B. The draft decision for the case at 999 Fell Street, for the Board's review.

VI. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 865 Capp Street

J001-15, 16, 17E

Three long-term tenants are being evicted for the landlord's family; three units are allegedly needed for two families. The previous and current owners have attempted to sell the building to the affected tenants, ostensibly at a discounted price. The landlord's attorney has engaged in a series of questionable acts, including informing tenants that the Rent Board had cancelled the hearing; falsely alleging that defective eviction notices had been rescinded and then proceeding with an unlawful detainer action; and attending Rent Board hearings on behalf of his client, but alleging insufficient personal knowledge regarding the case to testify.

Recommendation: That the case be set for a Board hearing to determine if the landlord and/or his attorney should be referred to the District Attorney and to investigate the propriety of the attorney's actions before this Board.

B. 825 Masonic Avenue

J001-08E

This case originated as a decrease in services and "eviction" from the tenant's garage space. At the hearing, certain agreements were reached and the landlord and his attorney were instructed by the hearing 1556A



officer to prepare a settlement document and return it to the Rent Board office one week after the hearing. No such document has yet been received.

Recommendation: For staff to write a letter cautioning the landlords to: (1) follow State law concerning entry for repairs; (2) produce a settlement document reflecting the agreement reached at the hearing; and (3) refrain from interfering with the tenant's rightful use of the apartment.

MSC: To accept staff's recommendations regarding both of the above cases. (Marshall/Astle: 5-0)

#### VII. New Business

The Board scheduled the annual Christmas party for December 9, 1988.

#### VIII. Calendar Items

November 29, 1988

7 appeal considerations

1 eviction reconsideration

Old Business: Rules and Regulations changes (same committees as October 18, 1988)

December 6, 1988

5 appeal considerations

6:00 Appeal hearing: 550 Moraga J001-43R (accepted 11/22)

#### IV. Appeal Hearings

A. 4210 Balboa St. #404 J001-38R

Prior to commencement of the appeal hearing, the following motion was made:

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (McGoldrick/Astle: 5-0)

One tenant appealed the hearing officer's decision granting capital improvement pass-throughs on the grounds that, if she had to pay the noticed increase in full, she would be forced to move. The tenant appeared with her non-attorney representative. The landlord failed to appear, due to an alleged calendaring mistake on his part. After testimony was taken and evidence was presented regarding the tenant's income and resources, the Commissioners made the following motion:

MSC: That the capital improvement pass-through for this tenant shall be \$15.00 as of August 1, 1988. The \$15.00 payment shall commence with the December 1, 1988 rent payment and the \$45.00 owing retroactively shall be added at the end of the respective amortization periods. (Astle/Marshall: 5-0)

B. 1878 Market Street #310 J001-39R

One tenant appealed the hearing officer's certification of a \$17.57 capital improvement pass-through on the grounds of financial hardship. The tenant and the landlord appeared and represented themselves. Testimony and evidence were taken regarding the tenant's financial situation, after which time the Board passed the following motion:

MSC: To uphold the hearing officer's decision and find that no financial hardship sufficient to defer all or a portion of the capital improvement pass-through exists for this tenant at this time. (Astle/Marshall: 5-0)

X. Old Business

The Commissioners divided into committees to discuss proposed Rules and Regulations changes. The following four committees convened for approximately one hour each: Operating and Maintenance Expenses; Evictions/Substantial Rehabilitation; Board Operations/Conduct of Hearings; and Capital Improvements.

XI. Adjournment

President Carrico adjourned the meeting at 10:10 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, 5:30 p.m.

November 29, 1988

State Building, 350 McAllister St. #1158

AGENDA

\*\*\*\*\*

DOCUMENTS DEPT.

NOV 28 1988

SAN FRANCISCO PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 1953-B Grove St. J001-44A
  - B. 435 - 437 Tehama St. J001-45A
  - C. 201 - 11th Ave. #3, #5 & #11 J001-44R through J001-46R
  - D. 227-B Pierce St. J001-48A
  - E. 1730 Jackson St. #109 J001-47A
  - F. 218 Peabody St. J001-46A
  - G. 131 Sears & 230 Paris J001-47R & J001-51A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - Request for Reconsideration
  - 131 Sears & 230 Paris J001-52A
- IX. Old Business
  - Committee Discussions: Proposed Rules and Regulations Changes
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1555A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 29,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

DEC 2 1988

SAN FRANCISCO  
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I. Call to Order

Vice President Astle called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Stephenson;  
Soulis; Villa.  
Commissioners not Present: Marshall; McGoldrick.  
Staff Present: Hernandez; O'Hearn.

President Carrico appeared on the record at 5:41 p.m. and chaired the meeting following the approval of minutes. Commissioner Lipski appeared at 5:52 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 22, 1988 with corrections to the first motion on page 4 to reflect that it only applies to the current tenant of the particular unit. (How/Stephenson: 5-0)

IV. Consideration of Appeals

A. 1953-B Grove St. J001-44A

The hearing officer determined that the tenant's base rent when he moved in was \$250.00 plus \$25.00 for utilities, but did not include the utility payment in the total base rent when calculating annual rent increases. As a result, each annual increase was found null and void. The landlord appeals primarily on the basis that the original base rent should be considered \$275.00, including utilities.

MSC: To accept the appeal and remand the case to the hearing officer with instructions to reconsider the issue of the base rent to include the cost of housing services for the unit. (How/Carrico: 5-0)

B. 435-37 Tehama St. J001-45A

The landlord appeals the hearing officer's decision granting \$135.78 of the requested capital improvement monthly increase of \$151.81. The landlord seeks to correct an error on his petition with regard to the total cost of kitchen renovation work for the four units.

By letter delivered to the Commissioners at the meeting, one of the tenants indicated that she had not received a copy of the hearing officer's decision and until the day before, had not received notice of the appeal consideration.

MSC: To accept the appeal and remand the case to the hearing officer with instructions to consider the actual cost of the kitchen renovations, and to permit the tenants to raise any other appropriate issues, including hardship, on appeal of the remand decision.  
(How/Hammill: 5-0)

C. 201 - 11th Ave. J001-44R through J001-46R  
units 3, 5 and 11

The tenants appeal the hearing officer's decision granting capital improvement passthroughs exceeding \$100.00 per month. The capital improvement work includes the changeover from steam heating provided by the landlord to electric heating provided by the tenants, the removal of garbage chutes and the removal of Murphy beds. The tenants contend that some of the work performed by the landlord does not qualify as capital improvements and some work was unnecessary and was objected to by the tenants.

Following the hearing on this case, the tenants each filed petitions seeking rent reductions to correspond with lost or decreased housing services related to the capital improvement work. That record in that case closed on November 4, 1988.

MSC: To accept the appeal and remand the case to the hearing officer who heard the tenant petitions with instructions to consider the cost and allocation of the deadbolts and to consider other issues consistent with the decision on the tenants' petitions.  
(Astle/Hammill: 5-0)

D. 227-B Pierce St. J001-48A

The landlord appeals the hearing officer's decision based on the fact that he did not receive notice of the continued hearing. However, he did not submit a declaration under penalty of perjury as required by Board Rules and Regulations Section 11.14(b).

Although the notice for the original hearing on this case was sent to his street address without indicating any suite number, the landlord appeared at the hearing. The notice of continued hearing, at which he did not appear, was sent to the same address.

The landlord further objects to certain findings in the decision and the determination that the landlord's failure to repair and maintain the premises warranted deferment of the current rent increase. The rent increase notice was dated June 1, 1988 to take effect July 1, 1988 and the tenants filed their petition on July 18, 1988.

MS: To deny the appeal. (Stephenson/Hammill)



Following discussion on the above motion, the Commissioners agreed to continue the matter in order to give the landlord the opportunity to submit a declaration concerning his non-receipt of the notice of hearing.

MSC: To table the above motion. (Astle/How: 5-0)

E. 1730 Jackson St. #109 J001-47A

The landlord appeals the hearing officer's decision that the 23% rent increase imposed in June 1988 after the tenant's sister moved out of the apartment is null and void. The tenant moved in with her sister in October 1985 and the resident manager knew of her residency since that time. The landlord argues that she is an unapproved subtenant of her sister, thus permitting the establishment of a new rent amount.

MSC: To deny the appeal. (Stephenson/Astle: 5-0)

F. 218 Peabody St. J001-46A

The landlord contests the hearing officer's determination that the unit is subject to the jurisdiction of the Rent Board. The landlord stated at the hearing that he moved to one of the three units in this building for as long as he has to in order to decontrol the building. He continues to spend some time at his house in San Mateo, but intends to occupy the apartment until his attorney tells him he can go home. On appeal the landlord's attorney argues that an owner-occupied exemption does not require residence as a principal place or with any intent to occupy on a permanent basis.

MSC: To deny the appeal. (Stephenson/Astle: 5-0)

G. 230 Paris/131 Sears J001-47R & J001-51A

Both the tenant and the landlord appeal the hearing officer's decision on the tenant's petition. The hearing officer granted rent reductions to correspond with the lack of adequate housing services and found certain rent increases null and void, but failed to determine the lawful base rent. The tenant objects to the lack of base rent determination, as well as to the denial of a rent reduction to correspond with the loss of garage use. The landlord disputes the base rent tentatively established for purposes of calculating rent reductions owed, as well as the determination of his liability as the owner's agent.

MSC: To accept the tenant's appeal and remand the case to the hearing officer solely to determine the base rent. (Astle/How: 5-0)

MSC: To deny the landlord's appeal as to any other issues raised. (Astle/Stephenson: 5-0)

V. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration

131 Sears & 230 Paris

J001-52A

The tenant's report of alleged wrongful eviction was consolidated with the tenant petition. The hearing officer's evaluation of the evidence indicated that the landlord has wrongfully attempted to evict the tenant. The landlord requests reconsideration of the hearing officer's recommendation referring the case to the Commissioners for their consideration of further action.

MSC: To deny the landlord's request for reconsideration and adopt the recommendations of the hearing officer and staff to send a letter to each of the landlords.  
(Astle/Hamill: 5-0)

VI. Communications

The Commissioners received the following communications:

A. A copy of a letter from the attorney for the tenant at 230 Paris St. to the attorney for the landlord.

B. A request from the representative for the tenant of 550 Moraga requesting a postponement of the appeal hearing scheduled for December 6, 1988 (Appeal J001-43R).

MSC: To grant the postponement request and reschedule the hearing for a date convenient to both parties.  
(Astle/Hamill: 5-0)

C. Copies of newspaper articles on housing from the San Francisco Examiner on November 29, 1988 and the Los Angeles Times on November 27, 1988.

VII. Director's Report

The Executive Director reported that the parties to the eviction hearing held on November 15, 1988 concerning 1229 Ulloa St. (Reconsideration J001-35A) had settled the matter.

VIII. Remarks from the Public

A member of the public commented that the Rent Board seems to drag things out. Another person asked the Board some procedural questions.

IX. Calendar Items

December 6, 1988

8 appeal considerations (including 1 cont'd from 11/29)



December 13, 1988

5:45       Eviction Hearing: 865 Capp St. (J001-15E accepted 11/22)  
          Old Business: Discussion of Proposed Rule Changes

December 20, 1988

          7 appeal considerations  
6:15       Appeal Hearing: 550 Moraga St. (J001-43R accepted 11/22)

December 27, 1988 - NO MEETING.

X.       Old Business

The Board adjourned its regular meeting at 6:55 p.m. to meet in their committees to discuss proposed Rules & Regulations Changes.

Commissioners Hammill, How, Lipski and Stephenson discussed Decreases in Services and Failure to Repair and Maintain. Commissioners Astle, Soulis and Carrico discussed comparables.

Commissioners Astle, Soulis and Carrico left at 7:25 p.m.

XI.      Adjournment

The final committee meeting adjourned at 8:15 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

December 6, 1988

State Building, 350 McAllister St. #1158

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

DEC 6 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- A. 227-B Pierce St.
- B. 3333 Clement St.
- C. 568 Arguello Blvd.
- D. 25 Edward St.  
units 2, 3, 4, 5, 8, 10 & 11
- E. 455 Euclid St. #306
- F. 2060 Pacific Ave. #303
- G. 458 1/2 Day St.
- H. 1391 - 8th Ave. #5 & #14

- J001-48A (cont. from 11/29)
- J001-49A
- J001-48R & J001-50A
- J001-49R though J001-55R
- J001-56R
- J001-53A
- J001-57R
- J001-54A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1559A





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R52  
#2 12/6/88

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 6,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

President Carrico called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico; Lipski; Marshall;  
McGoldrick; Soulis; Stephenson;  
Villa.  
Commissioners not Present: Astle; Hammill; How.  
Staff Present: Wolf.

DOCUMENTS DEPT.

III. Approval of the Minutes

MSC: To approve the Minutes of November 29, 1988 as  
corrected on page 2. (Marshall/Villa: 5-0)

DEC 12 1988

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IV. Consideration of Appeals

A. 227-B Pierce St. J001-48A (cont. from 11/29/88)

The landlord appeals the hearing officer's decision based on the allegation that he did not receive notice of the continued hearing. Originally, he had failed to submit a declaration under penalty of perjury as required by Board Rules and Regulations Section 11.14(b), so consideration of the appeal was continued in order for him to do so.

Although the notice for the original hearing on this case was sent to his street address without indicating any suite number, the landlord appeared at the hearing. The notice of continued hearing, at which he did not appear, was sent to the correct address with the suite number.

The landlord further objects to certain findings in the decision and the determination that the landlord's failure to repair and maintain the premises warranted deferment of the current rent increase. The rent increase notice was dated June 1, 1988 to take effect July 1, 1988 and the tenants filed their petition on July 18, 1988.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

B. 3333 Clement Street J001-49A

The landlord appeals the hearing officer's decision granting certification of a portion of the capital improvements petitioned for

and reducing tenants' rents for the loss of a sun roof. The landlord alleges that certain capital improvements were improperly denied and that use of the sun roof was not a housing service provided by the landlord.

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (McGoldrick/Marshall: 5-0)

MSC: To remand this case to the same hearing officer on the painting issue. (Villa/Carrico: 5-0)

C. 568 Arguello Boulevard J001-48R & J001-50A

The tenants and the landlord appeal the hearing officer's decision granting a rent reduction due to decreased housing services. In a previous case, the tenants were granted \$325.00 per month due to the presence of rats in the downstairs bathroom and bedroom. In the instant case, they were granted an additional \$620.00 per month due to the infestation of the premises. On appeal, the landlord maintains that the rooms could still be used and the tenants argue that, as the premises were uninhabitable, no rent should be owed back to the inception of tenancy.

MSF: To deny both appeals. (Marshall/McGoldrick: 2-3; Lipski, Carrico, Villa dissenting)

MSC: To deny the tenant's appeal. (Lipski/Villa: 5-0)

MSC: To accept the landlord's appeal and remand this case for a new hearing with instructions that the sense of the Board is that the amount of the rent reduction may be excessive. (Villa/Lipski: 4-1; Marshall dissenting)

D. 25 Edward Street J001-49R through 55R  
units #2, 3, 4, 5, 8, 10 & 11

Seven tenants appeal the hearing officer's decision granting increases due to capital improvements and increased operating expenses. The tenants allege that the common area improvements were not necessary for reasons of health or safety, which would be an allowable objection to work done to the interior of their units. Several tenants also allege that the approved amounts present a financial hardship.

MSC: To accept the appeals of the tenants in units 3, 5 and 8 and schedule a Board hearing on the issue of hardship only. (Villa/Carrico: 5-0)

MSF: To accept the tenants' appeals regarding certification of exterior painting costs. (Marshall/McGoldrick: 2-3; Villa, Carrico, Lipski dissenting)

E. 455 Euclid Street #306 J001-56R

One tenant appeals the hearing officer's decision certifying capital improvement increases. The tenant complains that the work was done to bring the building into compliance with City code requirements and that an increase due to necessary repairs and replacement is unfair.

MSC: To deny the appeal. (Marshall/Villa: 5-0)

F. 2060 Pacific Avenue #303 J001-53A

The landlord appeals the hearing officer's decision granting a rent reduction due to decreased housing services. Due to the construction of a new building on an adjacent lot, the landlord was required to close off two windows in the tenant's unit, thereby reducing light, fresh air and views. The landlord maintains on appeal that the intent of Section 10.10 of the Rules and Regulations was to prevent landlords from effectuating hidden rent increases by removing services, and not to punish landlords for actions taken due to circumstances beyond their control.

MSC: To remand this case to the same hearing officer on the issue of the \$50.00 rent reduction for the loss of the windows only, with instructions that the sense of the Board is that this does not constitute a substantial decrease in housing services within the meaning of the Rent Ordinance. (Villa/Marshall: 4-1; McGoldrick dissenting)

G. 458-1/2 Day Street J001-57R

The tenant appeals the hearing officer's decision exempting this building from the jurisdiction of the Rent Ordinance due to the landlord's having proved substantial rehabilitation of the structure. The tenant alleges that the work was necessitated by the landlord's deferral of routine maintenance.

MSF: To accept the appeal and schedule a hearing before the Board. (Marshall/McGoldrick: 2-3; Lipski, Carrico, Villa dissenting)

MSC: To deny the appeal. (Villa/Lipski: 3-2; Marshall, McGoldrick dissenting)

H. 1391 8th Avenue #5 & 14 J001-54A

The hearing officer denied the landlord's petition for certification of capital improvements due to the landlord's failure to submit requested information regarding square footage in the building and the size of the units. Without such information, the hearing officer found it impossible to determine the appropriate method for cost allocation. The landlord maintains on appeal that he sent in the required information, but that it was not received by the Rent Board.



MSC: To excuse Commissioner Stephenson from consideration of this appeal. (McGoldrick/Marshall: 5-0)

MSC: To accept the landlord's appeal and remand the case to the same hearing officer for a new hearing.  
(Villa/Marshall: 5-0)

V. Communications

The Commissioners received the following communications:

A. Letters regarding the cases at 227-B Pierce and 2060 Pacific (J001-48A and J001-53A).

B. The Board's decision in the case at 1062-1066 South Van Ness (I002-70A), which was approved by the Board and signed by President Carrico.

C. A notice regarding a hearing before the City's Planning Commission on Housing Needs Determinations, which will take place on December 8th at 1:30 p.m. in room 282, City Hall.

VI. Director's Report

Rent Unit Supervisor Delene Wolf gave the Commissioners a Memo from Executive Director Hernandez regarding the possibility of the Board filing an amicus brief in a case involving the awarding of triple damages under the rent law. The case will be discussed in Executive Session at next week's meeting.

VIII. Calendar Items

December 13, 1988

Executive Session: Kelly v. Yee (Superior Court #863 739)  
5:45 Eviction hearing: 865 Capp St. (J001-15E accepted 11/22)  
1 eviction case summary  
Old Business: Discussion of Proposed Rules Changes.

December 20, 1988

7 appeal considerations

Appeal Hearings:

|      |                |                                   |
|------|----------------|-----------------------------------|
| 6:15 | 550 Moraga St. | J001-43A (accepted 11/22)         |
| 6:45 | 25 Edward St.  | J001-50, 52 & 53R (accepted 12/6) |

December 27, 1988

No meeting

VIII. Adjournment

President Carrico adjourned the meeting at 7:20 p.m.  
1566A





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 13, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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DOCUMENTS DEPT.

DEC 12 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Executive Session [Govt. Code Section 54956.9(a)]  
Kelly v. Yee (Superior Court No. 863 739)
- IV. Approval of the Minutes
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
  - A. Report from Staff
    - 2090 Grove J001-41E
  - B. Hearing
    - 5:45 865 Capp Street J001-15E (accepted 11/22/88)
- IX. Old Business
  - Proposed Rules and Regulations changes
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1565A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL  
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 13,  
1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
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I. Call to Order

President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle, Carrico, Hammill, How,  
Lipski, Marshall, Stephenson  
Commissioners not Present: Soulis, Villa.  
Staff Present: Wicks, Wolf

Commissioner McGoldrick appeared on the record at 5:43 p.m.

III. Executive Session

The Board went into Executive Session at 5:38 p.m., pursuant to Government Code Section 54956.9(a), to discuss Kelly v. Yee (Superior Court No. 863 739). Deputy City Attorney Rick Judd described the possibility of filing an amicus brief in a case involving the awarding of triple damages under the Rent Law. It was the consensus of the Board to have the City Attorney's office review the matter. The Board appeared back on the record at 5:52 p.m.

IV. Approval of the Minutes

MSC: To approve the Minutes of December 6, 1988, as written.  
(Astle/McGoldrick: 5-0)

V. Consideration of Allegations of Wrongful Evictions

A. Hearing: 865 Capp Street J001-15E (accpt. 11/22/88)

This matter was accepted for hearing by the Board on the Recommendation of the hearing officer and Eviction Unit, with the possibility of referral of the landlord and/or his attorney to the District Attorney. Neither the landlord nor his attorney had attended the lower hearing; the Rent Board had received a call from the attorney's office right before the hearing, indicating that the notices had been rescinded and there would be no appearance for the landlord. However, new termination notices were issued that same day. Further, a week before the scheduled hearing, the landlord had told each tenant to not appear because the notices were being rescinded and the matter had been cancelled at the Rent Board. However, the Rent Board was not contacted in this regard, nor had Staff indicated to anyone that the matter was removed from calendar. The landlord's attorney--Guadalupe Gamino--insisted he had sent a letter asking for cancellation of the

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DEC 16 1988

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PUBLIC LIBRARY

1920

1920

hearing; when pressed, he later admitted that he had not sent the letter. The landlord stated that he had merely followed his attorney's direction and that he believed the hearing had indeed been cancelled. The landlord was represented by a new attorney at the hearing before the Commissioners.

The various tenants have resided in the subject three-unit building since 1970, 1974, and 1977. The total rental income of the building is \$865.00. The current landlord purchased the building in June 1988. He currently owns and resides in another three-unit building, where he shares a two-bedroom apartment with two additional small sleeping areas with his wife, five children, and his brother. The other two units in his present residence are currently rented for \$1,000 each. The landlord gave defective termination notices to all tenants in the subject building for use by his family, indicating to the Commissioners that they need more space. The second termination notices indicated that the landlord's brother would reside in the middle unit. However, the landlord testified that he planned for his brother to reside in the bottom unit with the brother's out-of-country family, during the 2 or 3 months allowed by his family's visa; the owner then planned to convert the residential unit to garage and storage for his painting business whenever he received City permission for the conversion. There was testimony that the landlord had offered to sell the building to one of the tenants after she informed him that it would be a great hardship for her to move.

After discussing the testimony and evidence, the Commissioners voted as follows:

MSC: To find wrongful eviction attempts.  
(Marshall/Astle: 4-1; Commissioner Carrico dissenting)

At 8:36 p.m. the Board went into Executive Session, pursuant to Government Code Section 54956.9(c), to consider possible litigation. After returning on the record at 8:45 p.m., the Board announced the two motions passed in Executive Session:

MSC: To take no further action on these cases at this time beyond monitoring. If any further improper action is taken, the cases will be referred to the District Attorney for investigation and prosecution.  
(Astle/Marshall: 5-0)

MSC: To find that attorney Guadalupe Gamino attempted to illegally evict, and to refer the matter of his behavior to the District Attorney and State Bar.  
(Astle/Marshall: 5-0)



B. Report from Staff:

1. 2090 Grove St. J001-41E

This case will be continued to a later date since a Reconsideration Request has been filed.

2. 825 Masonic J001-08E

The Commissioners were given a reply from the landlord's attorney to a cautionary letter signed by President Carrico. The Board was informed that the Eviction Unit and the tenant's attorney had concerns about the landlord's refusal to include in the settlement document all terms agreed to at the hearing. This matter will be placed on the next agenda for discussion.

VI. Old Business

Due to the lateness of the hour, the Commissioner deferred discussion of proposed Rules and Regulations changes to the January 3, 1988 meeting.

VII. Communications

The Commissioners received the following communications:

- A. Draft decisions for 4210 Balboa St. #404 and 1878 Market Street #310, which they will review;
- B. A postponement request for 1048 Guerrero St., which was granted;
- C. A request to reschedule and consolidate the landlord's recent appeal on 762 Pine with the tenant's appeal scheduled for December 20, 1988, which was granted;
- D. A letter asking that someone from the Board meet with the Bayview Hunter's Point Homeowners and Residential Community Development Council;
- E. An attorney's request that the Rent Board consider allowing for a discovery process in dealing with alleged wrongful eviction cases. This request will be discussed at the next meeting.

VIII. Remarks from the Public

- A. A member of the public encouraged the Board members to talk to their various constituencies about trying to increase the housing supply in San Francisco.





- B. Chris Collins from the Professional Property Managers Association invited the Board members to the 4th annual housing industry Christmas party.

IX. Calendar Items

December 20, 1988

7 appeal considerations

1 eviction case summary

Appeal Hearings:

6:15- 550 Moraga J001-43R (accepted 11/22/88)

6:45- 25 Edward #3, 5, 8 J001-50,52,53R (accepted 12/6/88)

Old Business: 825 Masonic eviction matter & Eviction Discovery

December 27, 1988

NO MEETING

IX. Adjournment

President Carrico adjourned the meeting at 9:10 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

December 20, 1988

\*\*\*\*\*  
State Building, 350 McAllister St. #1158  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

DEC 16 1988

SAN FRANCISCO  
PUBLIC LIBRARY

- A. 2240 Northpoint J001-57A
- B. 235 Oak St. #12 J001-58R
- C. 25 Capra Way #104 J001-56A
- D. 596 - 28th Ave. J001-60R
- E. 71 Perine St. J001-58A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

229 Lee Street #A J001-44E

- IX. Old Business
  - A. 825 Masonic St. J001-08E
  - B. Pre-Hearing Eviction Discovery

- X. New Business

- XI. Appeal Hearings

- 6:15 A. 550 Moraga St. J001-43R (accepted 11/22/88)
- 6:45 B. 25 Edward Street J001-50R through J001-53R  
units 3, 5 and 8 (accepted 12/6/88)

- XII. Calendar Items

- XIII. Adjournment

1571A





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 20, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158  
\*\*\*\*\*

I. Call to Order

Vice President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; McGoldrick; Stephenson'  
Soulis; Villa.  
Commissioners not Present: Carrico; Hammill; Marshall.  
Staff Present: Hernandez; O'Hearn.

Commissioner How appeared on the record at 5:40 p.m. and Commissioner Lipski appeared at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 13, 1988, as written. (Stephenson/McGoldrick: 5-0)

DOCUMENTS DEPT.

IV. Consideration of Appeals

JAN 3 1989

A. 2240 Northpoint St. J001-57A  
units 4, 9, 10 11 & 12

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The landlord appeals the remand decision on the tenants' appeals (J001-16R through J001-20R of the original decision on his capital improvement petition. On September 6, 1988 the Board remanded the case to the hearing officer to "consider the windows as improvements to individual units" and allocate the costs accordingly, as well as to consider any appropriate defenses. On remand units 4, 9, 10 11 & 12 received reduced passthroughs based on the tenants' objections to replacement windows in their individual units. On appeal the landlord argues that the windows must be considered a common area improvement allocated on the basis of windows allocated to individual units and that the replacement was necessary.

MSC: To deny the appeals. (McGoldrick/Stephenson: 5-0)

B. 235 Oak St. #12 J001-58R

The tenant appeals the hearing officer's denial of his petition for a rent decrease based on decreased housing services. The hearing officer found that the pest control services were not decreased significantly enough to warrant a rent reduction. The tenant complains that the hearing officer erred in apparently relying on evidence from the pest control technician employed by the landlord.

MSC: To deny the appeal. (Stephenson/Villa: 5-0)

C. 25 Capra Way #104 J001-56A

The landlord appeals a 5% (or \$24.36) monthly rent reduction granted to correspond with the conversion of the steam heating system in building to individual gas heaters in the units and paid for by the tenant. The landlord disputes any significant increase in the tenant's gas bills which is not already offset by the landlord's monthly credit of \$15.76 to the tenant.

MSC: To excuse Commissioner Stephenson from consideration of this matter. (McGoldrick/Villa: 5-0)

MSF: To deny the appeal. (McGoldrick/Astle: 2-2; How and Soulis dissenting.)

There being a lack of majority vote, the matter was continued to the next Board meeting.

D. 596 - 28th Ave. J001-60R

The tenant, who did not appear at the hearing, appeals a capital improvement passthrough of \$12.24 per month based on a roof walkway which he claims benefitted only the penthouse apartment and not all of the six units in the building.

MSC: To accept the appeal and remand the case for hearing on the walkway work. (How/Soulis: 5-0)

E. 71 Perine St. J001-58A

The landlord appeals the determination that 7% increases, which included a 3% increase for utilities, imposed each year beginning in 1984 are null and void. The landlord argues that only that portion of the increase which exceeds the allowable amount should be null and void.

MSC: To deny the appeal. (McGoldrick/Stephenson: 5-0)

V. Communications

The Commissioners received the following communications:

A. A letter from the tenant of 235 Oak St. #12 concerning his appeal, above.

B. A letter from the tenant of 2060 Pacific St. #303 concerning Board action on his landlord's appeal (J001-53A) on December 8, 1988. It was the consensus of the Board to schedule a remand hearing pursuant to their previous action.

C. A letter from the attorney for the tenants whose appeals (J001-27R through J001-29R) were denied by the Board on October 4, 1988.

D. Tenant exhibits concerning the 865 Capp St. eviction hearing (J001-15E) on December 13, 1988.

E. Decisions for 4210 Balboa St. #404 (J001-38R) and 1878 Market Street #310 (J001-39R), both concerning appeal hearings held on November 22, 1988, approved and signed.

#### VI. Director's Report

The Executive Director reported on the following matters:

A. The District Court dismissed with prejudice a lawsuit filed against the Board and the Director by Walter Culpepper (No. C87-4098).

B. The Deputy City Attorney regularly assigned to the Rent Board has been assigned out to the Land Use division and will no longer be representing the Rent Board. In response, the Commissioners requested a letter to the City Attorney commending the Deputy City Attorney's work on behalf of the Board. Discussion followed on how to work with the newly assigned Deputy City Attorney.

C. The Deputy City Attorney had advised the Director on conflict of interest matters possibly affecting Commissioner Stephenson. She should excuse herself whenever Old St. Mary's Housing Committee has been an active participant or representative in Rent Board proceedings.

#### VII. Appeal Hearings

A. 550 Moraga St.

J001-43R

The appeal hearing commenced at 6:20 p.m. Both parties were present with their representatives. The board accepted the tenant's appeal on November 22, 1988 to consider the issue of whether a trustee who has lived at the property for 62 years meets the owner-occupied exemption requirements pursuant to Rules and Regulations Section 1.14(e).

Following testimony and arguments from the parties, the hearing closed at 6:50 p.m. The Board approved the following motion following their discussion of the unique facts of this case:

MSC: To affirm the decision of the hearing officer with modifications to specify that the trustee in this particular case has a 50% fee interest in the property. (How/Soulis: 5-0)

B. 25 Edward Street  
units 3, 5 & 8

J001-50R, J001-52R & J001-53R

The appeal hearing commenced at 7:00 p.m. The three tenant-appellants represented themselves and the landlord's representative appeared with 1576A



the landlord's attorney. The Board accepted these appeals solely on the issue of hardship. Four other tenants' appeals were denied by virtue of that action when another motion to accept all appeals on the issue of exterior painting costs failed. The minutes of December 6, 1988 shall be corrected to reflect the denial of the appeals of the tenants of units 2, 4, 10 & 11.

The tenants of units 5, 3 and 8 in turn submitted documentation and testimony on their financial situations. At the outset of evidence concerning unit 3, the following motion passed:

MSC: To excuse Commissioner Stephenson from the hearing and consideration on unit 3. (McGoldrick/How: 5-0)

After the hearing closed, the Commissioners discussed in turn each appeal and approved the following motions:

MSC: To affirm the hearing officer's decision as it affects unit 5. (How/Soulis: 5-0)

MSC: To modify the decision as it affects unit 3 such as to permit the annual increase, operating and maintenance increase and PG&E passthrough to take effect on the next anniversary date of August 1, 1989 and the capital improvement passthroughs to take effect one year later, reviewable upon a change of circumstances. (How/Soulis: 4-0; Stephenson not voting.)

MSC: To affirm the hearing officer's decision as it affects unit 8. (How/Soulis: 5-0)

#### VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

229 Lee Street #A

J001-44E

In August 1988 the tenants were given a termination notice for the occupancy of the landlord's brother, who lives with his family in Oakland but wants to move closer to his job in San Francisco. The hearing officer directed the owner to have his brother and family move into the vacant flat, which is identical to the tenants' flat in the building.

Since issuance of the decision and recommendation, the tenants received a three-day notice for nonpayment. Although the amounts stated may be incorrect, the tenants had withheld approximately \$2,000 in rent payments because of habitability problems. Staff recommends that although there does not appear to be any wrongful intent or improper action in this case, it would be helpful for the Board to write the owner reminding him again that his brother needs to move into the vacant unit. The Board approved staff's recommendation.



IX. OLD BUSINESS

A. 825 Masonic St.

J001-08E

The eviction unit supervisor requests that the tenant petition (which previously was consolidated with an eviction report) be reopened because it has not actually settled as originally noted by the hearing officer's "Record of Settlement." The tenant therefore will receive any corresponding rent reduction to which she is entitled based on decreased services. Staff will monitor the landlord's actions to see if harassing behavior continues and, if so, require further action from the Board. The Board approved the recommendation of staff.

B. Pre-hearing Eviction Discovery

The Commissioners discussed an attorney's request that the Rent Board consider allowing for a discovery process concerning alleged wrongful eviction cases. It was the consensus of the board that there need not be such a process and that the issued need not be resolved by regulations. Staff was requested to offer suggestions to the Board and draft a response to the attorney.

X. Calendar Items

December 27, 1988 - NO MEETING

January 3, 1989

3 appeal considerations (including 1 cont. from 12/20)  
Old Business: Discussion of proposed changes to Rules & Regs.

January 10, 1989

5 appeal considerations (including consolidated appeals)  
1 eviction request for reconsideration

XI. Adjournment

Vice president Astle adjourned the meeting at 8:30 p.m.



## MEMORANDUM

TO \_\_\_\_\_ DATE \_\_\_\_\_  
FROM Rod Wong, Citizens Complaint Officer SUBJECT Fees

Our standard document fee for copying, pursuant to subpoena, is \$.10 per page.

\_\_\_\_\_ copies x 10¢ = \$ \_\_\_\_\_

Staff cost for search and copy is \$12.00 per hour.

\_\_\_\_\_ hr(s) x \$12 = \$ \_\_\_\_\_

Cassette Tapes (@ \$7.00)

\_\_\_\_\_ tapes(s) x \$7 = \$ \_\_\_\_\_

Cost for postage:

\$ \_\_\_\_\_

Total

\$ \_\_\_\_\_

ST.

Payment(s) Received

- \$ \_\_\_\_\_

BALANCE DUE

\$ \_\_\_\_\_

Please remit check payable to San Francisco Rent Board.

RW:sl  
1092A











